

Comment Number	Received From	Question/Comment	Response(s)
6043	Adams, S., City of Long Beach	Please define "waste generator"	Comment noted, throughout the regulatory text the term generator is used synonymously with the term "organic waste generator."
6044	Adams, S., City of Long Beach	Tier two generators - there is a discrepancy as to when they are required to begin donating usable food. Is it in 2024 or 2025?	The regulations clearly state that tier one commercial edible food generators are required to comply beginning January 1, 2022 and tier two commercial edible food generators are required to comply beginning January 1, 2024.
6045	Adams, S., City of Long Beach	Regarding organics collection from the public, it's mentioned that there needs to be collection in public parks. Is this intended to be for events in parks or organics collection 24/7 in parks? Unattended public food waste collection will undoubtedly be heavily contaminated.	The regulations do not require that organics recycling containers be placed next to trash containers in public areas, such as public parks, beaches, etc.
2037	Adams, Tracy; GreenWaste Recovery, Inc.	Utilizing the strengths of both company's expertise, many of GreenWaste's municipal customers are already leading the state in diversion of organics materials from landfill. While we applaud the intent behind SB 1383, we do have some concerns (detailed below) that the verbiage in the Proposed Regulation Text limits company's abilities to innovate in different ways to achieve the goals of SB 1383, and in some cases could make existing technology that has been implemented and shown to be successful in reaching CalRecycle's goals obsolete. Based on the cost of implementation, conversations with CalRecycle staff, and the massive capital investment that SB 1383 will require throughout the state, we are certain that relegating existing facilities obsolete is not the intent of CalRecycle with this regulation, so would respectfully request the following considerations relating to the Proposed Regulation Text.	Comment noted. The comment is an introductory statement for specific suggestions.
2038	Adams, Tracy; GreenWaste Recovery, Inc.	Sections 18982.a.1 (46) and 18982.a.1 (55) B – Regarding the definitions of "Organic Waste" and "Prohibited container contaminates": Section 18982.a.1 (46) adds lumber into the definition of Organic Waste where section 18982.a.1 (55) B calls out "hazardous wood waste" as a prohibited container contaminant. Both definitions bring areas of ambiguity into what, exactly, is allowed as an Organic Waste and what is considered a Prohibited container contaminate. As it stands, it could be interpreted that treated lumber (for example) would be considered an organic material. While it is made of a ase organic material, once this material is treated, it can no longer be recycled nor composted, and should be removed from the definition of Organic Waste. Recommendation: For Section 18982.a.1 (46), we would encourage CalRecycle to add the term "clean" (or a much broader definition of clean) prior to the term "lumber."	CalRecycle is leaving the applicable definitions as-is. Lumber defined as "hazardous wood waste" cannot be recovered through composting and is therefore specifically called out in the definition of "prohibited container contaminants."
2039	Adams, Tracy; GreenWaste Recovery, Inc.	Similarly, Section 18982.a.1 (55) B declares "hazardous wood waste" as a contaminate in a green container. The term "hazardous wood waste" is not defined in the regulation. Currently, painted or treated wood are considered contaminates to the organics system, and we believe should continue to be excluded from the definition.	The regulations were amended to include a definition of "hazardous wood waste."

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		<p>Recommendation: Either add a definition for “hazardous wood waste,” or add the following clarifiers after the word “waste”: “including painted, treated, laminated, particle board, fiberboard, or chipboard.”</p>	
2040	Adams, Tracy; GreenWaste Recovery, Inc.	<p>Section 18982.a.69 – The definition of “Source separated organic (SSO) waste” means organic waste that is placed in a container that is specifically intended for the separate collection of organic waste by the generator.</p> <p>In approximately 40 jurisdictions throughout California, a “loose in the street” (LIS) collection methodology is used, where the homeowner is allowed to take their yard trimmings and prunings and place them in a pile on the street for subsequent collection via a claw loader and rear load collection vehicle working in tandem to scrape the yard trimmings from the street and place them in the collection vehicle. In the case of many cities, a segregated yard trimmings collection process is the SSO program, and the remainder of organic materials are then placed into the grey (solid waste) bin for processing at a High Diversion Mixed Waste Processing facility. Per the definition as written, this material would no longer be considered a SSO program since the materials is not containerized. It has demonstrated for many years that a LIS program achieves an extremely high level of organics diversion when paired with the processing of the solid waste fraction.</p> <p>Recommendation: Alter this definition to allow for the LIS collection methodology by adding the following to the definition after container “(or placed out for an alternatively approved collection system).” Ultimately, the goal is to remove additional organics materials from the landfill, and the existing language would negate a system that is already removing a significant tonnage of organics materials from being placed in the landfill.</p>	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>
2041	Adams, Tracy; GreenWaste Recovery, Inc.	<p>Section 18984.x – “This article specifies the minimum standards for organic waste collection services provided by jurisdictions, outlines efforts jurisdictions must engage in to reduce container contamination, delineates container color and labeling requirements...”</p> <p>While we understand the intent of this section to proscribe to jurisdictions how they can be compliant with the SB 1383 requirements, we also feel that this section is too prescriptive, and does not allow for alternative methodologies to achieve the goals of this legislation. While this section allows for three, two, or one bin collection systems, it does not allow for the collection of yard trimmings through a loose in the street program or any other program that does not fit into a traditional two or three stream programs. The ability for jurisdictions and companies to innovate has long been encouraged and has led to new technologies and procedures that meet and exceed state goals.</p> <p>In the regulations as written for a three-cart system, all organics must be placed into a green container, unless the grey container is taken to a high diversion mixed waste processing facility, which would allow “food based” organics to be placed into the grey bin, while “greenwaste” organics could be processed at a source separated organics facility. By keeping the food-based organics separate from the greenwaste</p>	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>

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		<p>organics, you are able to make distinct levels of compost, both an “MSW” compost (suitable for tree and landscaping uses) and an “organic” compost (suitable for ground based crop uses), thus maximizing the usefulness of both commodity streams.</p> <p>Recommendation: As with the definitions, we would request that a provision for loose in the street collection in all collection methodologies. The verbiage as it stands requires the jurisdiction to containerize materials (or at a minimum in the three-cart system provide a cart that may not be used in certain programs).</p>	
2042	Adams, Tracy; GreenWaste Recovery, Inc.	<p>In section 18984.7 a jurisdiction is required to provide collection containers that comply with the container color requirements in the article. It remains unclear if roll off (and/or compactor) containers would need to follow the same color guidelines in the event a large customer (such as a campus) were to subscribe to services in such a manner.</p> <p>The cost of keeping multiple sizes of roll off bins in multiple colors will be extraordinary, as will the cost of land to store the multiple bins needed to comply with this section.</p> <p>Recommendation: Allow roll off containers and compactors to be of a neutral color and used for different commodities and defined by signage on the bin.</p>	<p>Roll-offs are included; however, the regulations allow flexibility with phased timelines, color being on the lid or container. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products.</p> <p>Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life. The regulations allow labels to be applied to existing bins or lids until the containers are replaced either at the end of their useful life or by 2036. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life or by 2036.</p>
2043	Adams, Tracy; GreenWaste Recovery, Inc.	<p>In section 18984.7 a jurisdiction is required to provide collection containers that comply with the container color requirements in the article. It remains unclear if roll off (and/or compactor) containers would need to follow the same color guidelines in the event a large customer (such as a campus) were to subscribe to services in such a manner. In the event of roll off based compactors, most of these are owned by the</p>	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as</p>

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		<p>customer and it will be extremely difficult to enforce painting of these containers, so we strongly suggest that identification of these would follow the same methodology as roll off containers.</p> <p>Additionally, this section specifies a jurisdiction “shall” provide containers to generators that comply with the color requirements specified earlier in the section.</p> <p>Recommendation: Change the verbiage so that all containers provided by a jurisdiction shall comply, allowing for a provision of loose in the street collection with no container.</p>	<p>a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street. Regarding roll-off containers owned by an organic waste generator, the regulations place the requirement on the commercial business. The regulations require that the containers provided by the business shall have either:</p> <p>(A) A body or lid that conforms with the container colors provided through the organic waste collection service provided by their jurisdiction; or</p> <p>(B) Container labels that comply with the requirements of Section 18984.8.</p>
2044	Adams, Tracy; GreenWaste Recovery, Inc.	<p>Section 18984.5 determines how containers should be monitored for contamination on the daily routes. As this provision exists, there is a burden to monitor all routes, even those that have shown that they are consistently complying with the provisions of SB 1383. While we understand CalRecycle’s desire to monitor all routes for compliance, we believe that this can be accomplished by looking at the load checks when materials enter the transfer or processing facility. We feel a small adjustment to this section can achieve CalRecycle’s goals and keep the cost to jurisdictions lower.</p> <p>Recommendation: Have section “c” of this provision become the driver to require route audits. Once a jurisdiction is informed of a contaminated route, then begin conducting route audits and tagging of violators per subsection “b”.</p>	<p>Thank you for the comment. The comment is in support of the current language.</p> <p>For clarity, the regulations allow the jurisdictions to determine random selection, which is the least costly and burdensome approach compared to requiring statistically significant sampling. In regard to if the program will meet compliance, this has been addressed in language changes to Sections 18984.5 and 18984.6.</p> <p>CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs.</p>
2045	Adams, Tracy; GreenWaste Recovery, Inc.	<p>Section 18984.5 determines how containers should be monitored for contamination on the daily routes. This would prevent jurisdictions from having to allocate resources to auditing high performing routes and allow for more time being spent on routes that are exceeding contamination levels.</p> <p>Recommendation: Add “or door” after the term “container” in section 18984.5 (b) (1) (B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p>	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>

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2046	Adams, Tracy; GreenWaste Recovery, Inc.	<p>Section 18984.11 (a) (3) provides for Collection Frequency Waivers wherein “a jurisdiction may allow the owner or tenant of any residence, premise, business establishment or industry that subscribes to a three-container or two-container organic waste collection service to arrange for a service that collects waste not placed in the green container once every fourteen days, provided that:</p> <ol style="list-style-type: none"> 1. The jurisdiction, or its authorized hauler, demonstrated to the Solid Waste Local Enforcement Agency that less frequent collection than required by Section 17331 of Title 14 of the California Code of Regulations will not result in the propagation of vectors or other public health and safety, or nuisance issues. <p>For reference, Section 17331 of Title 14 is as follows: “(H) The owner or tenant of any premises, business establishment or industry shall be responsible for the satisfactory removal of all refuse accumulated by him on his property or his premises. To prevent propagation, harborage, or attraction of flies, rodents or other vectors and the creation of nuisances, refuse, except for inert materials, shall not be allowed to remain on the premises for more than seven days, except when:</p> <ol style="list-style-type: none"> (a) disruptions due to strikes occur, or (b) severe weather conditions or “Acts of God” make collection impossible using normal collection equipment, or (c) official holidays interrupt the normal seven day collection cycle in which case collection may be postponed until the next working day. Where it is deemed necessary by the local health officer because of the propagation of vectors and for the protection of public health, more frequent removal of refuse shall be required.” <p>While we understand it is the intent of CalRecycle to offer less than weekly services on inert materials, we have concerns about the real-life application of this section. Take, for example, a jurisdiction who has the following collection system:</p> <ul style="list-style-type: none"> Curbside Yard Trimming Collection in a green cart (Source Separated Organics) On premise recyclable in a blue cart On premise solid waste and mixed organic collection in a grey cart (Mixed Waste Processing) <p>This program would still have organics in the grey cart (and likely smaller amounts as contaminants in the blue container) and thus would be required by Section 17331 of Title 14 to subscribe to weekly collection. We believe that the option of bi-weekly collection will create an auditing challenge and jurisdictions will be double burdened – not only having their collection revenue decreased, but also incur an additional expense to monitor the system.</p> <p>Recommendation: Remove Section 18984.11 (a) (3) from these regulations.</p>	A change in language is not needed because nothing in the regulations requires a jurisdiction to offer less frequent collection services.
2047	Adams, Tracy; GreenWaste Recovery, Inc.	In section 18990.1 (b) (5), CalRecycle requires that “a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that do any of the following: (5) Require a generator to use an organic waste collection service or combination of services that	A change to the regulatory text is not necessary. CalRecycle disagrees. This section will not conflict with market conditions. Potential market shifts will impact all facilities. This section is necessary because the statute is intended to increase organics recycling, not decrease organics recycling.

Comment Number	Received From	Question/Comment	Response(s)
		<p>do not recover at least the same types of organic waste recovered by a service the generator previously had in place.”</p> <p>As an organic’s processor, this provision is concerning as markets and ability to compost can shift, similar to the market shifts we have seen in the recycling markets. It is our premise that we must be able to adjust to shifting market conditions. For example, “compostable” single use food ware has become a relatively commonly accepted material in many organics’ programs.</p> <p>Though these materials are accepted in the programs, the material will not break down in a commercially reasonable timeframe and become contaminates to the organic’s program. Other materials that can vary by program include palm fronds and yucca.</p> <p>While we understand it is CalRecycle’s desire to ensure that programs grow going forward, it is imperative that each jurisdiction can design programs that fit their needs, which includes the ability to adjust to changing technologies and markets. Without this ability, haulers will be required to accept contaminants into their program if previous haulers have allowed them.</p> <p>Recommendation: Remove section 18990.1 (b) (5) from the regulations.</p>	<p>This provision is simply designed to prohibit a jurisdiction from requiring a generator to send its material to a facility that will recycle less of it than one they are currently sending it to.</p>
2048	Adams, Tracy; GreenWaste Recovery, Inc.	<p>As a processor, we applaud CalRecycle’s inclusion of section 18993.1 – the Recovered Organic Waste Product Procurement Target. Having a viable market for materials after the collection, sorting and processing of organics materials is critical to encouraging development of new and expanded organics processing facilities. Currently, section 18993.1 (f) mandates that only two products will be included in the procurement targets: Compost and Renewable transportation fuel.</p> <p>Recommendation: Add renewable electricity produced through a California-based Anaerobic Digestion Facility or California-based Urban Biomass facility.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers</p>

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2049	Adams, Tracy; GreenWaste Recovery, Inc.	<p>The intent of the SB 1383 regulations is to have an accurate accounting of the flow of organics materials throughout the mixed waste streams. While a volumetric conversion factor can give a general idea of what is happening in these facilities, it does not present an accurate picture of the actual disposition of organics materials. With smaller facilities going through the EA Notification Tier permitting and thus not being required to put scales in their facilities, there is a very grey area in terms of reporting.</p> <p>Recommendation: Require all processors of organic materials to have scales at their facilities and accurately report all weights.</p>	<p>CalRecycle has revised Sections 17409.5.9 in response to comments. The change to Section 17409.5.9 will allow the EA, with concurrence by the Department, to approve an alternative method described under Section 1855.1.9(g) if scales are not accessible. This change will align with the adopted AB 901 regulations (RDRS).</p>
2050	Adams, Tracy; GreenWaste Recovery, Inc.	<p>As one of the premier processors of organics materials in Northern California, our family of companies is excited to work with CalRecycle to implement the changes dictated by SB 1383. While we believe the Proposed Regulation Text as exists requires some clarity and flexibility to allow for alternative collection and processing methodologies, we certainly agree with staff that this is a good first step and would hope that with the complexity of the new regulations and the amount of questions that exist with this implementation, an additional 45 day comment period will be added so all parties can have their questions and concerns addressed.</p>	<p>Comment noted. CalRecycle circulated various iterations of the draft regulatory language for multiple comment periods consistent with APA requirements.</p>
2051	Adams, Tracy; GreenWaste Recovery, Inc.	<p>Section 18984.5 determines how containers should be monitored for contamination on the daily routes. As this provision exists, there is a burden to monitor all routes, even those that have shown that they are consistently complying with the provisions of SB 1383. While we understand CalRecycle's desire to monitor all routes for compliance, we believe that this can be accomplished by looking at the load checks when materials enter the transfer or processing facility. We feel a small adjustment to this section can achieve CalRecycle's goals and keep the cost to jurisdictions lower. Would CalRecycle consider allowing section "C" of this provision (the review of materials at facilities) be the driver to determine which routes need auditing, and then follow the route audits as required in section "B?" This would allow auditors to focus on routes that are problematic instead of auditing high performance routes, thus saving jurisdictions money.</p>	<p>CalRecycle is providing flexibility to jurisdictions to determine routes and the number of containers to randomly select. Nothing prohibits a jurisdiction from also allowing drivers to identify routes that are problematic. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The</p>

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			<p>revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
2052	Adams, Tracy; GreenWaste Recovery, Inc.	<p>Though Article 9 is not called out in the agenda for this section, this does seem to be the place that this question comes into play. In section 18990.1 (b) (5), CalRecycle requires that "a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that do an of the following: (5) Require a generator to use an organic waste collection service or combination of services that do not recover at least the same types of organic waste recovered by a service the generator previously had in place." As an organic's processor, this provision is concerning as markets and ability to compost can shift, similar to the market shifts we have seen in the recycling markets. It is our premise that we must be able to adjust to shifting market conditions. For example, "compostable" single use food ware has become a relatively commonly accepted material in many organics' programs. Though these materials are accepted in the programs, the material will not break down in a commercially reasonable timeframe and become contaminates to the organic's program. Other materials that can vary by program include palm fronds and yucca. While we understand it is CalRecycle's desire to ensure that programs grow going forward, it is imperative that each jurisdiction can design programs that fit their needs, which includes the ability to adjust to changing technologies and markets. Without this ability, haulers will be required to accept contaminants into their program if previous haulers have allowed them.</p> <p>Would CalRecycle be amenable to either adjust or remove this section to allow for programmatic flexibility in the future?</p>	<p>CalRecycle is leaving this provision in place. 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.</p>
6281	Aguinaga, G., Harvest Energy Holdings LLC	<p>CalRecycle, in its effort to implement SB 1383, must support both front end markets (organic waste diversion and recycling) and back-end markets through broad use of the recycled organics products both within the jurisdictions' procurement practices and outside of them. Recycling organic products can include methane gas for power production, for gas system injection, for transportation fuel, compost, mulch and other products.</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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</p>

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			<p>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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
6282	Aguinaga, G., Harvest Energy Holdings LLC	<p>Harvest acknowledges and supports CalRecycle's effort to create a procurement program for jurisdictions; this will be an exciting new market within local governments for recycled organic products. However, as currently drafted, the proposed SB 1383 procurement section is very limited and only allows two recycled organic products to be considered out of many options that exist now, and more that may come to the fore in the future through technology advancements. We strongly suggest CalRecycle consider amending its draft regulation as it relates to the new procurement program to give jurisdictions a broad choice when procuring recycled organic waste products and not limit their options to compost and renewable gas transportation fuel.</p> <p>While we support a new procurement section in these regulations because this will provide financial incentives and opportunities for new AD infrastructure development, severely restricting a new procurement program is short-sighted and does not recognize the economic and industrial diversity within our state. =</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>

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			Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
6283	Aguinaga, G., Harvest Energy Holdings LLC	Limiting the recycled organics products market for jurisdictions to procure to just transportation fuels and compost is a mistake and we ask that this be corrected.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
6284	Aguinaga, G., Harvest Energy Holdings LLC	One of the most important signals that can be sent to developers is a clear message from the agency that the regulations will be implemented in a timely manner, meaning adoption of the regulations in 2019 imperative. The diversion statutes were passed in 2016. Achieving final adoption of the implementing rules will let the industry, especially technology developers and project developers, know the State is committed to developing a new AD market and that it is safe to continue investing in the projects.	Comment noted. The commenter is expressing an opinion on when the regulations should be finalized and approved.

Comment Number	Received From	Question/Comment	Response(s)
6285	Aguinaga, G., Harvest Energy Holdings LLC	The combination of a clear timeline and strong enforcement mechanisms will be critical for developers to secure the organic waste feedstock needed to continuously operate ADs, as well as to demonstrate market stability to secure the financing necessary to fund construction of new AD facilities in California. It is imperative that CalRecycle send a strong signal to the industry that the agency will implement the SB 1383 regulations effectively and on schedule.	Comment noted. The commenter is expressing an opinion regarding the need for strong enforcement and robust implementation of the final regulations.
6286	Aguinaga, G., Harvest Energy Holdings LLC	Given this level of needed lead-time, it is critical that CalRecycle implement the regulation as quickly as possible.	Comment noted. The commenter is expressing an opinion regarding the need to implement the final regulations as quickly as possible.
6287	Aguinaga, G., Harvest Energy Holdings LLC	As this initial wave of projects will provide crucial assets for the early days of regulatory implementation, it is important that industry be sent a signal from CalRecycle that their continued investment is warranted.	Comment noted. The comment does not suggest changes to regulatory language or the regulatory process undertaken by CalRecycle.
6288	Aguinaga, G., Harvest Energy Holdings LLC	Given these development risks, industry players are reluctant to enter into this process without a clear regulatory signal that a market will exist once they come out the other end.	Comment noted. The comment does not suggest changes to regulatory language or the regulatory process undertaken by CalRecycle.
6289	Aguinaga, G., Harvest Energy Holdings LLC	RE: Cal Recycle proposes the following language at Article 12. Procurement of Recovered Organic Waste Products (Page 27 of regulation): "Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by this article. For the purposes of this article, the recovered organic waste products that must be procured are: (1) Compost (2) Renewable transportation fuel" -- Harvest strongly suggests that CalRecycle consider including other organic commodities in the procurement requirement listed above. As we have discussed in this letter, these regulations will be sending a strong signal to the marketplace. With anaerobic digestion being a sector in its infancy, here in the US and especially California, it carries a level of risk and walks a delicate balance between an investable AD project and not. All potential forms of revenue must be allowed, including compost, mulch and all forms of methane to renewable gas for power production, gas system injection, transportation fuels, as a feedstock for renewable hydrogen and other potential uses that may be developed in the future through technology advances.	CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.

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			<p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>CalRecycle disagrees with adding an option for “other potential uses that may be developed in the future” for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
6290	Aguinaga, G., Harvest Energy Holdings LLC	<p>Choosing, or otherwise severely limiting the specific recycled organic products that jurisdictions can buy puts CalRecycle in the position of choosing winners and losers, restricts a broad use of recycled organics, undercuts AD infrastructure development and threatens the overall 1383 and SLCP statewide program. In a world where technology is constantly changing, these regulations should not restrict the types of technologies used to derive any number of recycled organic waste products that can become available through this new diversion program.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. .</p>

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6291	Aguinaga, G., Harvest Energy Holdings LLC	<p>More specifically, the draft regulation restricts the procurement of organic waste derived fuel to renewable transportation fuel, hence a disincentive to the local government to build projects that can inject fuel into the natural gas pipeline. In 2018, the Legislature passed SB 1440 (Hueso) to direct the CPUC to develop a program to procure renewable natural gas, including such renewable gases that can be produced through anaerobic digestion. Since the passage of SB 1383, the Legislature clearly set new policy to support a broader renewable gas market. Therefore, these regulations are not aligned with statewide policies that support the deployment of renewable gases beyond the fueling station pump.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6292	Aguinaga, G., Harvest Energy Holdings LLC	<p>There is also an established statewide BioMat program that supports the use of recycled organics to methane from AD facilities to be used for power generation. Therefore, there is precedent, and both new and long-standing state policies that support a broad use of recycled organic products in various energy markets, and the proposed SB 1383 section on procurement does not align with established renewable gas polices in California.</p> <p>An important example for you to consider is the use of renewable gas within the City and County of Los Angeles, one of the largest organic waste sheds in the country. Currently, recycled organic waste converted to renewable gas is used in a variety of ways, not just for vehicle fueling stations. It is used in local power plants for electricity production, directly injected in to the natural gas system, used for fueling stations and can be used as a feedstock to create hydrogen. In yet another</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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</p>

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		<p>example of how the market for methane waste is expanding, on February 28, 2019, Southern California Gas Company and San Diego Gas & Electric Company filed comments at the California Public Utilities Commission requesting authority to offer a Renewable Natural Gas Tariff to their customers. The tariff's goal is to create market pressure that will drive demand for renewable natural gas, increase renewable natural gas supply and thereby reduce methane emissions in the waste and other sectors. These examples demonstrate that the market is already moving toward a broad expansion of new infrastructure investments.</p>	<p>“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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
6293	Aguinaga, G., Harvest Energy Holdings LLC	<p>While it can be a challenge to create a new industry, in the case of organics recycling to renewable gas and deployment via pipeline injection, the distribution and delivery system to the gas pipeline already exists, the electric generation also already exists and hydrogen production also already exists - all of which can accommodate renewable gas, and all of which have current statewide programs and incentives to support these end uses. More specifically, CPUC regulated infrastructure and approved renewable gas injections standards are in place and able to accept biomethane today. CPUC BioMat tariffs are also in place and able to accept new power on the electric system. Local governments, like LADWP, also have extensive experience with handling and using renewable gas. Recycled organics to biomethane can immediately leverage the current gas systems and electric system, as well as the current fueling stations to effectively deploy products from AD facilities and bring success to California's SB 1383 goals.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity.</p>

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			<p>The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
6294	Aguinaga, G., Harvest Energy Holdings LLC	Harvest suggests not restricting the jurisdiction's procurement options at all, and instead allow the local government to decide, based on the technology available in their jurisdiction, which recycled organic produce to procure, use and/or redeploy.	<p>of Reasons regarding the eligible end-uses identified in the regulations and how they should be interpreted. The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>
6295	Aguinaga, G., Harvest Energy Holdings LLC	Alternatively, if Cal Recycle cannot simply allow for the procurement of any available organic commodity, then Cal Recycle should design a pathway for local governments to gain approval for the procurement of unlisted organic commodities. The precedent was already set for this method in Article 2 Section 18983.1 where CalRecycle allows for other, unlisted diversion technologies to apply, and qualify for a diversion facility determination by stating: (8) Other operations or facilities with processes that reduce short-lived climate pollutants as determined in accordance with Section 18983.2. Section 18983.2: Verification Determination of Technologies That Constitute a Reduction in Landfill Disposal, outlines a procedure for applying for qualification as a diversion facility. If a diversion facility qualifies under this provision of the regulation, then the procurement of commodities manufactured by these facilities should be encouraged by CalRecycle and local governments in the procurement requirements of this regulation.	CalRecycle disagrees with adding an option for approval of “unlisted organic commodities” for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.
2007	Ambroso, Jim; The Resource Management Group, Inc.	Definition of Self Hauler – the definition limits self-haul activity to that which is performed by the generator only. Our concern is with the reference to “back hauls” from plants to distribution centers or warehouses owned or operated by the generator. From our experience, much of the back haul activity taking place is done by other commercial haulers, not by the generator or the local franchise hauler. For example, one large retailer uses an efficient and carbon friendly method of moving organics to a processing center, by having suppliers bringing products to their stores actually haul the organics as a “back haul” to the food waste processing center. The	CalRecycle already responded to stakeholder comments on this issue during the informal rulemaking and revised Section 17402.5(c)(6) to accommodate this situation. CalRecycle also clarified in the FSOR that de-packaging can happen elsewhere as long as the ownership of the material remains with the distribution center or stores and there is no further processing of the material.

Comment Number	Received From	Question/Comment	Response(s)
		<p>haul is not done by the generator, rather their supplier. To require a waste franchise hauler transport this waste doesn't make sense primarily because the food waste is on pallets in gaylord boxes and should be hauled in a van trailer, not a trash truck. The most efficient and cost effective way to recycle the food from retailers is to have it done by using a van trailer. Traditionally, franchise haulers won't supply a trailer.</p> <p>Appreciate if you can please consider this comment by allowing for non-generator owned vehicles to provide back-haul services under this method of collecting organic food waste.</p>	
2069	Ash, Kelly; California Grocers Association	<p>"Grocery store": Removal of "convenience stores" from this definition all together or separating it from the "Grocery Store" definition and define it independently would be beneficial moving forward as they are typically not seen as interchangeable. If "convenience stores" remain within the "grocery store" definition, it would be advisable. to include other retailers like pharmacies, which have been known to partner with grocery retailers to sell fresh food</p>	<p>CalRecycle revised the definition of grocery store in response to this comment. The definition of grocery store was revised to no longer include convenience stores because convenience stores typically do not carry a full line of grocery items and most likely will not have the same amount of edible food available for food recovery as a grocery store would have. For this reason, convenience stores were removed from the definition of "grocery store."</p>
2070	Ash, Kelly; California Grocers Association	<p>"Inspection": The need for an inspection is duplicative of inspections already required for food safety requirements. Furthermore, many of our Members do not keep their records on each store site therefore, there would be no records to inspect.</p>	<p>Section 18981.2 specifies that a jurisdiction may designate a public or private entity, which includes local environmental health departments to fulfill its regulatory responsibilities. If a jurisdiction designated their local environmental health department to monitor commercial edible food generator compliance, then the inspections would not be duplicative. Rather the local environmental health department could add to their existing food facility inspections to verify that commercial edible food generators are maintaining records.</p> <p>In addition, if a jurisdiction designated their environmental health department to monitor commercial edible food generator compliance, then health inspectors could also provide guidance to commercial edible food generators about safe surplus food donation best practices and food safety requirements. Please note that SB 1383 does not include food safety requirements. Food safety requirements are established by the California Health and Safety Code and enforced by environmental and public health departments.</p> <p>Regarding the comment that many supermarkets and grocery stores do not keep their records on each store on-site, the expectation is that each store maintains its own records specific to the food recovery activities of that store, and that those records are made available to the jurisdiction upon request by the jurisdiction.</p> <p>CalRecycle would also like to clarify that the regulations specify that commercial edible food generators are subject to inspection, and since an "inspection" is defined in Section 18982 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 is required in Section 18991.1 (a)(3).</p>
2071	Ash, Kelly; California Grocers Association	<p>"Non-compostable paper" and "Paper Products": Our Members would like clarification on whether either of these definitions includes waxed cardboard.</p>	<p>"Non-compostable paper" includes, but is not limited, to paper that is coated in a plastic material that will not breakdown in the composting process." If a material does not breakdown into compost during the composting process it is non-compostable. It is CalRecycle's understanding that waxed cardboard is compostable and would fall within this definition. Waxed cardboard</p>

Comment Number	Received From	Question/Comment	Response(s)
			would also fall within the "paper products" definition, although local jurisdictions, through their own ordinances, may have stricter requirements than these regulations and may prohibit such products going into the blue container.
2072	Ash, Kelly; California Grocers Association	"Tier one commercial edible food generator": To streamline enforcement and reporting, this definition would be best to allow for regional variation in how these types of generators are categorized to align with the local County Environmental Health Department. (i.e. Food permit types for food markets: under 3,000 sq ft; 3,000 sq ft to 10,000 sq ft; over 10,000 sq ft)	CalRecycle revised the threshold for grocery stores in response to this comment. The threshold for grocery stores was increased from 7,500 square feet to 10,000 square feet. This change was made in an effort to have the threshold align with environmental health inspections of grocery stores, so that these generators can be more easily identified by the jurisdiction.
2073	Ash, Kelly; California Grocers Association	"Tier two commercial edible food generator": The term "on-site food facility" needs to be defined separately to provide clarity on its meaning and the thresholds for it. Would a hotel that only sells packaged food mean on-site facility? Would public schools that receive food from a district facility be considered? Addressing the specifics of this would be helpful.	CalRecycle would like to clarify that a reference to the term 'on-site food facility' is only used in the thresholds for the following tier two commercial edible food generators: local education agencies, hotels, and health facilities. The regulations specify that 'food facility' has the same meaning as in Section 113789 of the California Health and Safety Code. To clarify, if something meets the definition specified in Section 113789 of the California Health and Safety Code and is also permitted as a food facility by the local health department, then it is a food facility. Section 113789 of the California Health and Safety Code is already well established through use in the California Retail Food Code and CalRecycle has determined it to be appropriate for use in this rulemaking to avoid duplication, conflict, or confusion.
2074	Ash, Kelly; California Grocers Association	Organic Waste Generator Requirements: Requiring commercial business generators to provide organic waste and non-organic waste disposal containers that conform with the containers provided through the organic waste recovery service of their jurisdiction is unnecessary. Allowing aesthetic and design authority to remain with the generator, excluding compliance required signage and terminology, will ensure consumers and customers have a pleasant experience while maintaining proper disposal access. Additionally, teaching, training, and reminding employees of proper organic waste disposal is a better approach than prohibiting employees from misplacing it. Prohibiting implies consequences to employees, when teaching and training paired with periodic inspections of organic waste containers for contamination and any needed reminders resulting from inspection is a more effective approach.	CalRecycle has determined that the color requirements in the regulations are necessary for statewide consistency and encouraging widespread generator understanding of appropriate materials that may go in collection containers.
2075	Ash, Kelly; California Grocers Association	Food Waste Prevention: Moving upstream to prevent food from going to waste avoids GHG emissions across the food cycle from production to consumption in addition to avoiding landfill emissions when food goes to waste. Collective research shows that food waste prevention is the most impactful and least resource intensive strategy to reducing GHG emissions from food. For example, the EPA's Waste Reduction Model (WARM) demonstrates that source reducing wasted food prevents 3.66 MTCO ₂ E per ton of food. Bay Area Air Quality District's consumption-based material inventory shows an average two tons of CO ₂ e avoided per ton of food waste prevented. We recommend that CalRecycle provide an exemption from food donation that recognizes and rewards the upstream efforts of generators implementing food waste prevention practices.	SB 1383's statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a food waste prevention target. As a result, CalRecycle will not require commercial edible food generators or jurisdictions to prevent or source reduce the amount of edible food they generate. CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for food recovery that are not desired by food recovery organizations or services. One example would be a generator having significant quantities of food that does not meet the nutrition standards of food recovery organizations or food recovery services. To address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food

Comment Number	Received From	Question/Comment	Response(s)
			<p>generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste.</p> <p>To clarify, this is not a requirement for commercial edible food generators or jurisdictions to source reduce the amount of surplus edible food they generate. This is an education requirement intended to help generators learn how they can prevent the creation of food waste. Providing this education is critical to help generators that struggle to find outlets for their currently disposed edible food comply with SB 1383's commercial edible food generator requirements, as all tier one and tier two commercial edible food generators are still required to comply.</p> <p>Regarding the comment that CalRecycle provide an exemption from food donation that recognizes and rewards the upstream efforts of generators implementing food waste prevention practices. Adding a section for commercial edible food generator exemptions and de-minimis waivers to the regulatory text was not necessary. Adding a section for exemptions and de-minimis waivers was not necessary because the regulations are already structured so that many food facilities and food service establishments are exempt from compliance due to the smaller amounts of edible food they typically dispose. Only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or tier two commercial edible food generator is exempt from SB 1383's regulations.</p> <p>CalRecycle recognizes however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this issue, CalRecycle revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3 extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. And (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.</p>
2076	Ash, Kelly; California Grocers Association	Emergency Circumstances, Disaster and Emergency Waivers: Power outages require immediate need for quick disposal of food products in their packaging. An alternate "opt-out" requirement would allow for perishable grocery items to be expeditiously disposed of only in the most urgent situations.	<p>The regulations specifically state "extraordinary circumstances" are: (1) A failure by the jurisdiction to increase edible food recovery capacity as required by section 18992.2.; and (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters. The language "other emergencies" in this provision is intended to take into account other situations that are emergent in nature, and may not be commonly defined as "natural disasters," but that are nevertheless outside the control of the commercial edible food generator and cause compliance to be impracticable. Please note, "other emergencies" includes business closure due to disease pandemics, and power shutoffs that are carried out specifically to protect the public's safety (e.g. electric company schedules and carries out a preventative power safety shutoff to protect the public from wildfires).</p> <p>"Other emergencies" however, does not include equipment failure or power outages that are not a direct result of a natural disaster or carried out specifically to prevent a natural disaster (e.g. wildfire). Allowing any additional flexibility to the "extraordinary circumstances" provision in the regulations could result in a loophole for commercial edible food generators to avoid compliance with the commercial edible food generator requirements of SB 1383.</p>

Comment Number	Received From	Question/Comment	Response(s)
2077	Ash, Kelly; California Grocers Association	Regulations of Haulers: Throughout the rule making process, it is important to make sure that generators who self-haul are able to do so in an economical way for their business. Some of our Members may find backhauling as the most common sense way to manage their organic waste, while others may not. The need to maintain flexibility when it comes to the hauling of organic waste is imperative.	Nothing in the regulation prohibits a business owner from self-hauling their organic waste.
2078	Ash, Kelly; California Grocers Association	Record keeping requirements: It is reasonable to have commercial edible food generators keep a list of each food recovery service or organization that receives edible food, but Food recovery services and organizations would be better suited to report the type of food, frequency of service, and the quantity of food they collect.	<p>CalRecycle would like to clarify that recordkeeping and reporting are different. Commercial edible food generators are not required to report information to the jurisdiction. They are required to maintain records, which is critical for enforcement purposes. Without the recordkeeping requirements for commercial edible food generators, jurisdictions will not be able to verify if a commercial edible food generator is complying with SB 1383's commercial edible food generator requirements.</p> <p>Many well-established food recovery organizations and services already provide their donors with some form of receipt of donation that often has the amount of food donated. Many organizations do this to provide their donors with information that will help the donor if they intend on claiming any of the tax incentives offered for food donation.</p> <p>CalRecycle would also like to clarify that food recovery organizations and services are only required to report the total pounds collected from the commercial edible food generators that they have a contract or written agreement with pursuant to Section 18991.3(b) in the previous calendar year to one jurisdiction. Nothing in the regulations requires a food recovery organization or service to report the types of food, frequency of service, or donor names.</p>
2079	Ash, Kelly; California Grocers Association	Reporting: The amount of staff and volunteer time that would be required to document all the detailed aspects of food recovery take away from resources that could be used to meet the goals of the regulations. We recommend that CalRecycle reduce the number of reporting requirements and types of information required to what is necessary to determine compliance.	<p>CalRecycle would like to clarify that recordkeeping and reporting are different. Commercial edible food generators are not required to report information to the jurisdiction. They are required to maintain records, which is critical for enforcement purposes. Without the recordkeeping requirements for commercial edible food generators, jurisdictions will not be able to verify if a commercial edible food generator is complying with SB 1383's commercial edible food generator requirements.</p> <p>CalRecycle would also like to note that that many well-established food recovery organizations and services already provide their donors with some form of receipt of donation that often has the amount of food donated. Many organizations do this to provide their donors with information that will help the donor if they intend on claiming any of the tax incentives offered for food donation.</p>
2080	Ash, Kelly; California Grocers Association	In general, we strongly support the goals and intent of SB 1383 and appreciate the intent as we are committed to being good stewards of the environment, our neighbors, and for our communities. To that end, our comments are aimed at helping the Department create regulations that can be successfully implemented by Members. We look forward to continuing conversation with CalRecycle to work toward our common goals.	CalRecycle appreciates the support and also looks forward to continuing this work to achieve our common goal of keeping edible food out of landfills.
3627	Astor K., Heaton, S., Green, S., Helget,	Local Jurisdiction Mandate	Regarding authority to impose requirements on jurisdictions, SB 1383, in Public Resources Code Section 42652.5(a)(4) and (5), specifically allows the proposed regulations to "include different

Comment Number	Received From	Question/Comment	Response(s)
	C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste Management Assn Solid Waste Assn of Orange County	<p>The central concern we have is that the draft regulations take a draconian command and control approach that in our view is not workable for jurisdictions and is not supported by the language or intent of SB 1383. CalRecycle must develop regulations within the framework of state law. The implementing regulations should not exceed the authority granted in the law to the point that they are neither cost-effective nor feasible. SB 1383 set statewide organic disposal reduction targets of 50 percent by 2020 and 75 percent by 2025 to meet the statewide methane emission reduction goals for 2020 and 2025. The bill requires CalRecycle to adopt regulations to achieve the organic waste reduction goals, that may “require” local jurisdictions to impose requirement on generators or other relevant entities within their jurisdiction and may “authorize” local jurisdictions to impose penalties on generators for noncompliance. This bill was not intended to be a local jurisdiction mandate, however given the manner in which the regulations are structured and the inclusion of the enforcement and penalty requirements, the proposed regulations result in that effect. Instead of a detailed command and control approach, we strongly urge CalRecycle to provide an alternative approach that allows jurisdictions to develop their own programs and approaches to meet the performance goals, subject to reporting and oversight, similar to the way that AB 939 was originally implemented.</p>	<p>levels of requirements for local jurisdictions...” and may “include penalties to be imposed by the Department for noncompliance.” Regarding necessity, please refer to the Final Statement of Reasons.</p> <p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3628	Astor K., Heaton, S., Green, S., Helget, C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste Management Assn Solid Waste Assn of Orange County	<p>To the extent that SB 1383 authorizes CalRecycle to require local jurisdictions to procure specific products beyond that already regulated by statute, we suggest the recovered organic waste products (compost and renewable transportation fuel) be expanded to allow procurement of other organic waste-derived commodities in the procurement program. We believe that choosing specific organic commodities for governments to procure puts CalRecycle in the position of choosing winners and losers and threatens innovation, as well as imposing mandates that may be mismatched with the needs of local communities.</p> <p>We recommend not restricting the procurement requirements at all, and instead allow the local government to decide, based on the technology available and products needed in their jurisdiction, which organic waste-derived commodity to procure. However, if CalRecycle cannot simply allow for the procurement of any available organic commodity, then perhaps the regulations could include a pathway for local governments to gain approval for the procurement of additional organic commodities (such as RNG procurement beyond transportation uses, mulch and bark), similar to the approach found in Section 18983.2, where unlisted diversion technologies may apply and qualify for a diversion facility approval determination. Additionally, and at a minimum, a process should be added to allow variances and</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>exemptions, so that communities that do not have demand for these products or that have an alternative way to meet them have a path to reach compliance.</p>	<p>recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>Regarding allowing an open-ended pathway for approval of unlisted organic products, CalRecycle disagrees with this approach for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. As noted above, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p> <p>CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use.</p>
3629	<p>Astor K., Heaton, S., Green, S., Helget, C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste Management Assn Solid Waste Assn of Orange County</p>	<p>Flexibility and Version of Good Faith Effort Jurisdictions and their waste haulers need the flexibility to design programs based on a jurisdiction's specific needs and circumstances. That flexibility needs to include a grandfathering of facilities that have invested millions of dollars to comply with current laws and regulations. The regulations also need to include the ability of a jurisdiction to apply to CalRecycle for consideration of special circumstances specific to a jurisdiction that were not contemplated by these regulations. It is not possible to anticipate all the various scenarios that can occur in this diverse and complicated State. We also believe that a version of "good faith effort" is imperative to provide an avenue for successful compliance with the SB 1383 programs that are being developed. This approach has proven successful in determining compliance with the Integrated Waste Management Planning Act in nearly all jurisdictions across the state. While SB 1383 sets state targets, those targets can be achieved most efficiently and effectively through a state and local partnership and through the tailoring of programs to meet local needs.</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
3630	Astor K., Heaton, S., Green, S., Helget, C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste Management Assn Solid Waste Assn of Orange County	<p>Section 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, 17409.5.9 and 17409.5.11</p> <p>Daily Sampling Requirements</p> <p>The daily sampling requirements for incompatible materials and organics portion of residuals are excessive since an alternative and random sampling protocol can be reasonably accurate and much more cost-effective.</p> <p>Recommendations: We recommend sampling occur within a one-week period on a quarterly basis and reporting on a quarterly basis rather than monthly. Operators can apply the percentages to daily outbound loads of processed organics and residuals to provide a reasonable estimate of the quantity of organic material that is recovered and disposed. This is particularly applicable to Source Separated Organics (SSO) since SSO loads will be significantly cleaner than mixed waste loads. Periodic sampling will be much more cost effective and will provide similar data to daily sampling, without the additional labor, space and time burdens.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The operator will now be taking composite samples for 10 consecutive days per reporting period, which is on a quarterly basis. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
3631	Astor K., Heaton, S., Green, S., Helget, C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste Management Assn Solid Waste Assn of Orange County	<p>17409.5.7 Transfer Processing Load Checking</p> <p>Daily load checking is excessive. Many of these loads will include materials in bags. Breaking bags from a load daily will require significant space and additional personnel. We recommend that random monthly load checks of each collection route will provide an adequate review for contamination. As we understand the regulations, a facility handling source separated organics must maintain a record of all loads with contamination that exceeds 10%. If the intent of these regulations is to encourage SSO, we believe that this threshold is unreasonable and unenforceable and should be deleted.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
3632	Astor K., Heaton, S., Green, S., Helget, C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste	<p>3.10% Contamination Threshold – Incompatible Materials</p> <p>The 10% limit on incompatible materials is very confusing. First, the definition of incompatible materials was introduced in the 2nd Draft and we are still trying to understand the impact of this definition. Imposing a 10% limit on incompatible material and residuals appears to be a 90% organics reduction requirement and not the 50% and 75% requirement required by SB 1383. These 10% requirements may very well be a limit that is impossible to achieve in 2 ½ years, even with the best possible education efforts and with the addition of costly processing equipment. We strongly recommend that CalRecycle distribute a flow chart of both 10% requirements so that stakeholders understand the operational aspects of these requirements and the enforcement implications.</p>	<p>CalRecycle has revised this section to phase in the acceptable level. The change phased in the acceptable levels from 10 percent by 2022 to 20 percent on and after 2022 and 10 percent on and after 2024. This change was necessary to allow entities time to plan and make necessary adjustments to their operations. In addition, enforcement and penalties for non-compliance with the regulations do not go into effect until January 2022.</p> <p>The 50% and 75% are statewide targets. The incompatible material limit only applies when organics are being sent from a solid waste facility or operation to a secondary facility or operation for further processing. This is not a final recovery target. The incompatible material limit is to ensure the “cleanliness” of the organic waste separated from the source separated organic waste stream and mixed organic waste stream in order to ensure that the bulk of material sent out the</p>

Comment Number	Received From	Question/Comment	Response(s)
	Management Assn Solid Waste Assn of Orange County		<p>back end of a facility will be largely compatible with the type of facility that will be accepting it for further processing.</p> <p>CalRecycle staff will develop tools to assist in the implementation of the regulations.</p>
3633	Astor K., Heaton, S., Green, S., Helget, C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste Management Assn Solid Waste Assn of Orange County	<p>Long-Term Intermediate Landfill Cover</p> <p>The regulations include a requirement of compacted earthen material at least 36 inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 30 months to control methane emissions. Landfills already comply with the methane early action measure and we are not aware of any reports or data demonstrating the need for this requirement. We are also not aware of any cost/benefit analysis including the cost of additional generated truck miles and emissions that was completed for this requirement. This provision should be deleted and CalRecycle should initiate a comprehensive and scientifically-based analysis of intermediate cover and closure requirements. Any regulatory changes in those requirements should be accomplished in a focused work group setting to ensure that all impacts are properly considered.</p>	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
3634	Astor K., Heaton, S., Green, S., Helget, C., Kracov, G., Lynch, K., Mortinson, C., Moffat, J., and Westmoreland., E., Inland Empire Disposal Association, Los Angeles County Waste Management Assn Solid Waste Assn of Orange County	Again, we strongly urge CalRecycle to convene a working group with key stakeholders to discuss how the industry and local governments would propose to improve the SB 1383 regulations. We recommend that this working group be convened immediately and that it actively participates in the drafting of the next version of the proposed regulations.	Comment noted. The comment is not directed at the current regulatory language or regulatory process but is instead requesting CalRecycle convene a working group. Any subsequent rulemaking regarding SB 1383 would involve outreach and likely informal rulemaking discussions with affected stakeholders.
4404	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solic Waste Assoc', of Orange County	<p>INFRASTRUCTURE</p> <p>To the extent the draft regulations would impose new performance or other requirements on materials recovery/recycling facilities (collectively "MFRs"), we object. As industry stakeholders have repeatedly commented, the existing network of recycling facilities which CalRecycle will now target was created in response to AB 939, and its demand for waste "diversion." These facilities are responsible for the vast majority of all reported waste diversion in this state.</p>	Comment noted. This rulemaking does not impose affirmative recovery requirements on facilities - the requirements are on jurisdictions in how they route collected waste depending on the collection service model that is utilized. Solid waste facilities will not be subject to enforcement for not meeting recovery percentages.

Comment Number	Received From	Question/Comment	Response(s)
		<p>These AB 939 facilities are doing precisely what they were designed to do. Most are performing well. Many have been upgraded over the years to deliver even better results. Most have significant debt attached to them, as the operators borrowed tens of millions of dollars for their construction and operation. Every one of them contributes, to some degree, to municipal waste recovery and recycling efforts. One would hope that CalRecycle might simply embrace the singular contribution of this rather fragile network, and that it would follow the express instruction of AB 341 (embodied in Public Resources Code Section 40004) by helping to "sustain and grow" these facilities as part of the effort to achieve the state's 75% diversion goal. Instead, CalRecycle has gone in the opposite direction and has chosen to regulate them even further.</p> <p>Regulation burdens the regulated entity. It imposes costs that may or may not be recoverable. In the case of mixed waste processing facilities, the regulations you now propose will mean their premature demise. SWFs tend to be privately financed, over terms ranging from 20-30 years, at a cost of several tens of millions of dollars each. We fear that when banks and other sources of financing are confronted with the possibility of new regulation that renders a facility obsolete long before it has been paid for, it will have a chilling effect, and thereby hamper the ability of borrowers to obtain new loans for upgrades to existing facilities, and/or new construction.</p> <p>These mixed waste facilities tend to process 100% of the solid waste stream, including material that is destined for disposal due to its high level of contamination. Many jurisdictions like a mixed waste system because of the cost and emissions savings it achieves (two-thirds of truck trips are eliminated). Many prefer it because of the difficulty they encounter in getting the public to separate waste from recyclables.</p> <p>In any event, material that otherwise (in a 3-stream collection program) would never have been processed is now sorted, and recyclable material is removed. Because everything is processed, the percentage of material that is recovered is always going to be lower than a source separated system achieves, because those systems don't measure (and never see) material that goes to a landfill. It is excluded from the calculation. On the other hand, with a mixed waste system it is often the case that more material is actually recycled, because more material is processed.</p>	
4408	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solic Waste Assoc', of Orange County	<p>ENFORCEMENT</p> <p>The proposed regulations also fall short in at least two other general areas. The first has to do with the fact that the year 2020 and 2025 benchmarks for achieving the required organics diversion of 50%, and then 7 5%, will not be met; the necessary infrastructure is nonexistent and cannot be supplied within these time frames. While this fact is universally acknowledged, the regulations do not address it. They should. They should provide an avenue for a local agency to obtain relief from any enforcement action for failure to achieve the required organics diversion level where it can demonstrate that the failure was due to a lack of adequate organics</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>processing capacity, a lack of markets, or to contamination levels that are the result of the generator behavior upstream that has not sufficiently corrected despite a thorough public education effort. And to the extent that CalRecycle intends to assert enforcement actions against solid waste enterprises such as haulers or facilities (our reading of SB 1383 itself raises legitimate questions as to that ability), this relief should also be made available to them.</p> <p>The relief we speak of is not some form of permissive waiver process where CalRecycle retains absolute discretion to either grant or deny relief; rather, we propose a process that is more or less 'self-executing,' one in which the relief is available without requiring that a formal request be filed by the local agency (or hauler), so long as it can demonstrate the existence of certain facts which are beyond its ability to control, such as a lack of processing capacity or markets.</p>	
4405	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc' of Orange County	<p>Proposed Section 17409.5.1 would require that at least 50% of the organic waste received from mixed waste collection efforts be removed by 2022 (less than 5 years from now), and that 75% be removed by 2025. These numbers are unachievable. No such technology now exists, as CalRecycle staff must well know. Purists---very few of whom have any actual financial risk or "skin in the game," have never liked these systems because the recycling they provide is largely unseen, and does not require direct consumer participation. Nevertheless, punishing these facilities for their inability to perform work or which they were never designed is inappropriate. Clearly, it neither sustains them, nor aids in their expansion, and to that extent is in conflict with the very law that created the 75% diversion goal.</p> <p>It is worth noting that imposing an unattainable organics recovery requirement on facility operators will likely lead some to actually dispose of certain, relatively contaminated loads that would otherwise have been processed, in order to improve/preserve their facility numbers. Is that really the outcome you intend?</p>	<p>Comment noted. The comment is vague but appears to suggest that CalRecycle must propose to not enforce aspects of the regulation if the organic waste recycling infrastructure capacity necessary to achieve the targets is not established by an undetermined date. It is unclear how a commitment not to enforce a regulation would help achieve the purpose of the regulation. These regulations, like all regulations, are designed so that compliance with the regulations will achieve the goal of the regulation. Enforcement is an essential aspect of ensuring compliance. Each aspect of the regulation is necessary to carry out the purpose of the statute. A commitment to not enforce a provision of the regulation would obviate the purpose or necessity of that provision. Additionally, as noted previously, the proposed regulations contain provisions in Section 18995.4 and 18996.2 allowing delayed enforcement of penalties for extenuating circumstances, including for organic waste infrastructure deficiencies.</p> <p>Under 18996.2, enforcement of penalties may be delayed for up to three years if the standards of that section are met.</p>
4406	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc' of Orange County	<p>CalRecycle has, itself, estimated that perhaps 100 new facilities will be required to process diverted organics, and that figure, to our knowledge, only addressed the impacts resulting from the passage of AB 1826 and its commercial organics recycling requirement. It is not clear that this estimate accounted for the loss of the ADC market, which involves more than 1.6 million tons of material that will suddenly be displaced. The ADC option, as is well known, has been particularly helpful to communities in Southern California that have nowhere else to deliver their material. Whether or not the 100 facility estimate accounts for AB 1594 impacts, new infrastructure to process the green materials formerly disposed as ADC has not been developed in an amount adequate to meet the anticipated need.</p> <p>Consider, as well, that it takes an estimated 5-7 years minimum to develop a waste recycling facility, and this assumes limited interference from air and water quality regulators, and cooperation from local government, an assumption that is overly optimistic if past experience is any indication.</p>	<p>Stakeholder comments regarding mixed waste processing facilities span a wide spectrum -- from allowing existing facilities to continue to operate even if they do not meet higher diversion standards, to establishing a waiver process for allowing such facilities to continue to operate for 10 to 15 years beyond the target dates in statute or the effective date of the regulations respectively. As currently written, the regulations allow some time for a non-compliant facility to come into compliance; i.e., at a minimum, it will be over 6 months after the regulations are in effect before sufficient information is available to determine whether a facility has been out of compliance for two consecutive quarters. When this is the case, then a NOV would be issued to the jurisdiction(s) using that facility, requiring compliance within 90 days. The department may extend this period to a total of 180 days, after which it may issue a Corrective Action Plan for up to 24 months. This means that it will be at least 2 and possibly 3 years after the effective date of the regulations before the jurisdiction is not allowed to use a non-compliant facility. This would give facility operators several years in which to make necessary operational changes to come into compliance.</p> <p>During the informal rulemaking period, CalRecycle responded to many stakeholder requests for additional flexibility to allow these mixed waste facilities to continue operating beyond the</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>effective fate of the regulations. As noted in the ISOR, Sections 18984.2 and 18984.3 allow alternatives to providing a three-container source-separated organic waste collection service. Under these sections, jurisdictions are allowed to require their generators to use a service that does not provide generators 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 that are specified in Section 17409.5.1. 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, Sections 18984.2 and 18984.3 provide the flexibility requested and lay out minimum standards for two-container and unsegregated single-container organic waste collection services.</p> <p>Regarding the proposed exemption for one facility, CalRecycle disagrees in principle with the concept of carving out exemptions for specific facilities or specific jurisdictions on the basis of regulatory criteria that only fit that situation. If CalRecycle allowed this for one facility or one jurisdiction, then there would be no justification for not allowing similar proposals. This effectively invalidates the ability to create an even playing field with a single statewide regulation designed to achieve a statutory target. This could result in an unknown but conceivably large number of facilities and jurisdictions being exempted, with associated negative impacts on the ability to reach the mandated statewide organics disposal reduction goals.</p>
4407	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc' of Orange County	<p>As we have commented twice previously, we believe CalRecycle's effort in this regard to be both sincere, and seriously flawed. Your focus is completely misplaced. Further constraining the operation of existing facilities, and consequently the private sector's ability to site or operate such facilities, will not solve the problem. Once again, we respectfully urge that you shift away from imposing performance standards on the AB 939 network, and turn instead toward establishing regulations that will encourage the development of a new SB 1383 network, one specifically designed to address the organics recycling and composting objectives of that law. If "performance" must be considered at all, it should be reserved for---and limited to--- instances involving new facility development, or retrofitting existing facilities, and should be structured as an incentive, rather than as a punishment or sanction. AB 939 is still the law, and those facilities contributing to meeting the requirements of that law and should be left to do their job unmolested.</p>	<p>Performance standards are not imposed on facilities and those facilities are not subject to enforcement for not meeting recovery standards. Affirmative regulatory requirements are instead placed on jurisdictions in terms of how they route solid waste depending on the collection model that is implemented.</p>
4409	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	<p>There are no markets available in Southern California to fully absorb this flood of processed organics. We know this now. Even assuming it could all be safely and properly processed, if there is no place to sell the material, what then? Shall we just dispose of it? SWF permits contain strict limits on the permissible amount of material that can be stored on site, so temporary storage on site, as an option, is of very limited value. Because we are speaking here of organic material rather than plastic, fibers or other comparatively inert recyclables, with large scale storage one</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383</p>

Comment Number	Received From	Question/Comment	Response(s)
		must also consider the likelihood of unwanted side effects such as odor or emissions issues, which can prevent facilities from even operating.	furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
4410	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	Finally, the way in which these regulations address the markets issue, and the related enforcement issue, will have direct and profound franchise implications. Already, in anticipation of the draft regulations becoming final, at least one municipal solid waste consultant is advising its clients to force their service provider to offer SB 1383 indemnification. Consultants often seek the easy way out by encouraging a shift of the entire compliance burden to the private sector, but increasingly, local governments are seeing through this tactic and are recognizing that collectors/processors cannot influence global recycling markets, and have very limited ability to influence upstream/consumer behavior. As a result, waste franchise agreements have recently been trending away from arbitrary or fixed recovery percentages, and toward compliance that is program based, not unlike CalRecycle's own approach to communities placed under an AB 939 compliance order.	Comment noted. Franchise agreements are beyond CalRecycle's regulatory authority and are left to local control under the Public Resources Code
4411	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	The draft regulations unnecessarily target haulers and facilities for much of the SB 1383 compliance burden, despite the fact that the underlying legislation does not. The regulations make no allowance for the fact that the bill's timetable is unrealistic, its costs are astronomical, and neither local government nor the waste recycling industry can foresee any way to meet the requirements. To simply move forward and publish regulations that do not address these foundational issues is, in our view, rather short-sighted.	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.
4412	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	A primary area of concern has to do with the sheer amount of information (termed "data points" in your handout) that CalRecycle is now seeking. As CalRecycle staff is aware from our involvement with the AB 901 regulatory process, from the hauler's perspective it is vital that the proprietary and confidential nature of much of that information be protected from public disclosure---whether by local government, an enforcement agency, CalRecycle, or any other state agency with whom the information may be shared. Some of our concerns in this regard have been allayed, at least in part, by draft language that your legal office has shared, but until such time that adequate protections are built into the regulations, we remain justifiably concerned.	CalRecycle changed the requirement for a "written report" to a "written record" in 18995.1(c) to make clear that information gathered during inspections such as route reviews and compliance reviews is not required to be disclosed in a public report. These are written records that are to be maintained in the files of the local jurisdiction. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction.

Comment Number	Received From	Question/Comment	Response(s)
		<p>If the information is accessed by CalRecycle as the result of an audit (the process by which the contents of reports to CalRecycle are to be verified), AB 901 itself affords to the information owner a right to aggregate the data, and also offers some basic protection against public disclosure. However, information submitted in the form of a report to CalRecycle does not yet enjoy the same level of protection.</p> <p>At the same time, the mere fact that information may be protected from becoming a public record does not mean that my clients are anxious to share it with you, or that it is a good idea that government possess the information in the first place. Information that is exempt from public disclosure can still be misused.</p> <p>Accordingly, we respectfully urge that CalRecycle follow a "sustainable" approach to its information gathering mission: (i) collect no more than you absolutely require (in other words, no more than the underlying statutes specifically authorize), (ii) protect the information from public disclosure, and (iii) limit your use of the data to only those purposes specifically expressed in SB 1383. That legislation was not an invitation to collect data for the sake of data collection, or to pursue unrelated policy goals or objectives.</p>	
4413	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	At this juncture, the associations have no preference in terms of where they report--directly to local jurisdictions, or to CalRecycle; their ultimate answer will depend on how the draft regulations are written. The use of current databases as reporting mechanisms is acceptable as long as trade secret and confidential or proprietary information receives appropriate protection from disclosure.	CalRecycle changed the requirement for a "written report" to a "written record" in 18995.1(c) to make clear that information gathered during inspections such as route reviews and compliance reviews is not required to be disclosed in a public report. These are written records that are to be maintained in the files of the local jurisdiction. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction.
4414	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	Reporting on contamination is a potential area of concern. We are already on record in opposition to the use of standards to rate recycling facility performance. Measuring contamination at the front or back end of a MRF can result in data that may be used against the operator even though it has nothing to do with the quality of the facility. We know from experience that a facility which is located in, or serves, an economically disadvantaged community will see very high levels of contamination in the single stream materials, despite robust public education efforts. We also know that while contamination is increased where mixed waste systems are used, the net increase in the amount of material that is processed and recovered in these systems more than compensates for any effects of higher front-end contamination.	Comment noted. Comment is not commenting on the regulatory language.
4415	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	We want CalRecycle to collect only the minimum amount of information it needs to comply with statutory requirements, and have significant concerns about how the data you are collecting for SB 1383 purposes may be used in the future.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.

Comment Number	Received From	Question/Comment	Response(s)
4416	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	it is vital that all "haulers" be regulated and treated alike, so that the burden of these regulations does not apply only to those identifying themselves as solid waste enterprises. Many jurisdictions have underground (illegal, unauthorized) haulers that are somehow able to elude local enforcement efforts. The more CalRecycle seeks to regulate and control legitimate hauling operations, the greater is its obligation to find ways to discourage illegal waste hauling or recycling activity. Basic fairness requires as much, to say nothing of the public health threat associated with illegal hauling/recycling.	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.
4417	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	Our members accept that there may be a need to monitor waste generator compliance or participation rates; they do not wish to have any significant role in enforcing compliance. The exact relationship between waste hauling/recycling and edible food collection is unclear. Based on experience, however, we do fear that illegal waste hauling/recycling will increase under the guise of edible food recovery, and urge that very strict and enforceable standards be written to regulate the recovery of edible food, for the obvious public health reasons.	The regulations already include enforceable standards to ensure that 20% of currently disposed edible food is recovered for human consumption by 2025. Please note that SB 1383 does not include food safety requirements as food safety requirements are already specified in the California Health and Safety Code and enforced by environmental and public health departments.
4418	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	On the issue of generator exemptions, this is an area where there may be actual value in having the state evaluate the potential benefit of mandatory service. The idea that a resident or business can simply fail to subscribe to trash service, or easily opt out of a mandatory service requirement, is archaic at best. This is an essential public service not much different in importance than utility service or police and fire protection, yet nobody would argue for the right to selectively opt out of paying for those services.	Comment noted. The specific language requiring automatic enrollment within 30 days was removed from the final text. This text was replaced with clarifying language specifying that jurisdictions must provide collection service to their generators subject to their authority consistent with provisions of Article 3. This text, importantly, still requires jurisdictions to provide mandatory organic waste collection services to all of their generators. Mandatory service is required to ensure the state's ability to achieve the statutory organic waste reduction targets. Under existing law (AB 1826, Chesbro, 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 mandate subscription to service or require them to take enforcement against businesses that fail to obtain service. The state is not authorized to take enforcement against businesses under AB 1826. The vast majority of jurisdictions have chosen not to mandate service. These jurisdictions reported that fewer than 25 percent of their businesses are in compliance with existing organic waste recycling requirements. 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.
4419	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	We have absolutely no desire for CalRecycle to collect information (or attempt to influence in any manner local decision making) on the method of hauler regulation, and/or local rates. CalRecycle is overreaching by even seeking input on whether it should collect this form of data. Association members report a measurable increase over the past 12-18 months in terms of CalRecycle's activity level with local government. Your staff is already seeking data never before reported to the state by claiming it is required under AB 341 or AB 1826. In some instances, SB 13 83 is cited as the reason, despite the fact that the regulations have yet to be written. Growing the state's role in matters traditionally reserved for local determination is not wise. AB 341 itself acknowledges this fact. We urge restraint here. Calrecycle has no	No change to the regulatory text is necessary. The commenter is expressing an opinion, which is noted.

Comment Number	Received From	Question/Comment	Response(s)
		business involving itself in rates or methods of hauler authorization; as state law has expressed for more than 40 years, these are "aspects of solid waste handling that are of local concern."	
4420	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	if this is a precursor to CalRecycle asserting a more direct role in the formation of franchise agreements, then we are very much concerned, and would expect local governments to be equally alarmed.	CalRecycle does not have authority to directly regulate franchise agreements.
4421	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	entirely too much emphasis is being placed on how to manage or further regulate MRFs and other SWFs, and not enough emphasis is being focused on the issues that really matter: where to find the additional capacity to process organics, where to market the resulting product, and how best to reach waste generators and consumers to bring about the necessary change in behavior that will be required.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
4422	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	What is most needed now is a shift in direction, away from further regulating the regulated, and toward creating incentives that will stimulate new facility and domestic market development.	Comment noted. CalRecycle has adopted requirements within the scope of its regulatory authority that are necessary to achieve the statutory reduction targets. CalRecycle has sought to build incentives and performance based alternatives into the reg wherever feasible.
4423	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	One reason why we do not now have a larger inventory of these facilities is precisely because of the obstacles that government, perhaps unwittingly, places in their path. Despite this, your Slide 3 7 asks whether LEAs should have, as part of SB 13 83, new facility standards added to the existing suite of state minimum standards. Of course not. Rather, LEAs and others should be given tools to streamline the permitting and approval of these facilities, so that more emerge.	CalRecycle has noted the comment. This is not within the scope of the rulemaking. However, EA's should consult with their CalRecycle Permitting Point of Contact for any resources required for permit actions.
4424	Astor, JK, LA Co. WMA, Inland	The very same 2011 legislation (AB 341-Chesbro) that established the commercial recycling requirement in state law, and the state policy goal that not less than 75%	The regulations do not place recovery standards that are enforceable against facilities.

Comment Number	Received From	Question/Comment	Response(s)
	Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	<p>of solid waste be recycled or composted, also includes an often overlooked provision which created Public Resources Code Section 40004. There, this network of facilities is mentioned for its "net environmental benefit to the communities served," and it is described as a "valuable asset and resource of this state," one that "must be sustained and expanded" in order to achieve the state's additional diversion and recycling objectives [emphasis added].</p> <p>To the extent that the Draft Concepts would impose unrealistic performance "standards" or other requirements on individual recycling facilities, or even specific types of facilities, they are in direct conflict with PRC Section 40004. Placing undue burdens on these facilities neither sustains them, nor aids in expanding the network. Obviously, SB 1383 does not represent, either explicitly or by implication, a repeal of Section 40004. Accordingly, the two laws must be harmonized.</p>	
4425	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	<p>Many existing facilities (including, but not limited to, mixed-waste processing facilities) were developed using what was, at the time, "state-of-the-art" technology. Many were only designed to deliver compliance with AB 939. Financing terms for their construction can run upwards of 30 years, so many have not yet been fully paid for. Any regulatory effort, however well-intentioned, that has the effect of penalizing these facilities because they do not yet meet a standard for which they were never designed places the operator in an impossible position, to say nothing of the chilling effect it will have on future facility financings.</p> <p>Against this background, we would prefer to see the Draft Concepts be revised to eliminate consideration of performance standards or requirements, and to emphasize more the specific steps you propose for incentivizing new facility development.</p>	The regulations do not place recovery standards that are enforceable against facilities.
4426	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	<p>Another area where we would like to see greater emphasis in the Draft Concepts is in regard to marketing organics. Even if, by some miracle, we were to suddenly identify the additional processing capacity that is truly needed to manage an additional several million tons of organic material annually, no one has yet answered the question of where we will find markets to accept the processed organics. And, to the extent that the Regulations would discourage existing practices such as the land application of chip and grind material by treating it as "disposal," this only serves to exacerbate the problem.</p>	The regulations include procurement requirements intended to drive end use markets for processed organic waste.
4427	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	<p>An honest appraisal of the state of organics markets in Southern California leads to the unavoidable conclusion that land application must represent a viable option, and must not be equated with "disposal." We are not opposed to reasonable regulation regarding the quality of material applied to the land, as long as the standards are practical and achievable. But the application to land of organic material that meets reasonable specifications must not be equated with or regulated as a disposal activity.</p>	<p>Comment noted. The Appendix to the ISOR includes a regional variation analysis which considers the potential for the economic impacts to vary by region. The Appendix to the ISOR notes the following regarding Southern California jurisdictions, "This analysis shows that these Southern California counties may incur a higher portion of the cost on a per capita basis. The potential for economic impacts to vary by region is in alignment with recent findings in rate surveys performed in 2018 as a part of a study under contract for CalRecycle. The surveys found that existing service rates in Southern California are notably lower than the statewide average..."</p> <p>The statement that Southern California jurisdictions may incur a disproportionate impact appears to rest on the argument that there is less organic waste recycling capacity in southern California and there are fewer jurisdictions in Southern California that provide organic waste recycling</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>collection services. CalRecycle also acknowledges this in the Appendix in the ISOR which includes the following note:</p> <p>A business that is located in a jurisdiction that already implements a majority of the requirements of the law likely already pays a higher rate for waste collection services than businesses located in jurisdictions that do not provide these services. These businesses may experience more modest rate increases compared to businesses located in jurisdictions that do not provide any, or only provide a minimal amount, of the additional services required by the regulation.</p>
4428	Astor, JK, LA Co. WMA, Inland Empire Disposal Assoc'n, Solid Waste Assoc', of Orange County	<p>If these regulations are written in a manner that has the effect of encouraging the self-hauling of organic wastes, we fear that neither state nor local agencies are equipped to properly oversee and administer that new activity, with the result that public health will suffer. In any case, we prefer to see such matters addressed and regulated locally, by the city or county with jurisdiction, rather than by the State. And, wherever self-hauling is permitted, it should be accompanied by robust controls to ensure that the material was actually generated by the hauler, was safely transported, and was properly recycled or disposed of. Anything less creates the potential for an imminent and substantial threat to public health and safety, with the attendant costs, risk of litigation, and pressures upon municipal budgets.</p>	<p>Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.</p>
4395	Baker, D ReSoil Sacramento/Green Restaurants Alliance Sacramento	<p>As a community composter in Sacramento, and one of hundreds across our Country, I want to encourage you to support "community-scale" models of composting. By doing so, you will enable communities to take action on building their own sustainable food systems and climate-resilient landscapes. All with the use of local "waste" resources.</p> <p>Community composting is arguably the "highest and best use" for these organic resources. Building healthy soil directly in the community or neighborhood where the food scraps are produced enables organic matter to provide many environmental benefits to that community. It enables resources that stay in the city or town to address flooding, drought, nutrition, hunger, biodiversity, lack of natural environment, and the urban heat-island effect.</p>	<p>Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.</p>
6216	Ball, J., CA Biomass Energy Alliance	<p>Biomass power plant revenue comes from electric ratepayers around the State who are paying for the facilities' renewable electrons and some of its environmental benefits. The biomass power industry has additionally been acting as a landfill diversion tool without compensation for that service. This is problematic in the energy markets for several reasons. Biomass power must compete for contracts with other renewable technologies that will bid in lower costs due to economies of scale and excess government subsidies that are not available to biomass. Biomass facilities still and will always have additional costs associated with managing and moving its fuel, making contract renewals elusive for in the industry. These market conditions have resulted in the closure of 15 biomass power facilities over the last 10 years. When California loses a biomass plant due to an expired contract, 230-270 thousand tons/year of excess wood are left stranded.</p>	<p>"The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "Renewable Gas" states that renewable gas is not "one size fits all" and the best end-use depends</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>CalRecycle can reverse this trend by amending the Organic Waste Reductions Proposed Regulation Text to allow a local jurisdiction to comply with its Recovered Organic Waste Product Procurement Targets by procuring bioenergy. Section 18993.1(f) of the Proposed Regulation currently only directs local jurisdictions to procure compost and renewable transportation fuel. Subdivision (f) should be expanded to include renewable electricity that uses excess wood that would otherwise be landfilled. Local jurisdictions that would most benefit from this expanded option would be those with electricity procurement responsibilities through a municipal electric utility or a community choice aggregator. By procuring bioenergy electricity, a local jurisdiction would be able to comply with both its renewable electricity procurement goals and its organic waste reduction goals. For the first time, the dual function of a biomass facility would be shared by both electric ratepayers and waste management ratepayers of a local jurisdiction. Allowing a local jurisdiction to use biomass conversion as a compliance opportunity is a good thing and CBEA supports its continuation (18983.1(b)(4)). In its current incarnation, the regulation is doing nothing to ensure this valuable infrastructure continues to be available to divert excess wood and does nothing to ensure new community sized biomass facilities get built. This simple change would, for the first time, marry electricity procurement with organic waste management and remove a cost-barrier electric ratepayers aren't obliged to or willing to cover.</p>	<p>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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards."</p>
6217	Ball, J., CA Biomass Energy Alliance	<p>Add a new definition: "Renewable Electricity" is electricity which is generated from diverted organic waste using anaerobic digestion or conversion technologies consistent with Public Resources Code section 40106.</p>	<p>"The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards."</p>
6218	Ball, J., CA Biomass Energy Alliance	<p>Amend 18993.1(f) as follows: (f) For the purposes of this article, the recovered organic waste products that must be procured are: (1) Compost. (2) Renewable transportation fuel produced in California (3) Renewable electricity and combined heat and power produced in California (4) Pipeline biogas produced in California and that meets the requirements of Health and Safety Code section 25421.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity.</p> <p>The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends</p>

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			electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.
6219	Ball, J., CA Biomass Energy Alliance	<p>Amend 18993.1(g) as follows:</p> <p>(g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products:</p> <p>(1) One ton of organic waste in a recovered organic waste product procurement target shall constitute:</p> <p>(A) 19 diesel gallon equivalents, or "DGE," of renewable transportation fuel.</p> <p>(B) 0.58 tons of compost.</p> <p>(C) 25.605 standard cubic feet of biomethane for pipeline injection</p> <p>(D) 25.605 kilowatt hours of renewable electricity.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6484	Balsley, R., StopWaste	<p>In Article 3, since multifamily properties are included in the definition of "commercial business," I'm concerned with the assumption that multifamily properties and businesses can be treated the same with generator requirements and associated enforcement, particularly in regards to inspecting for organics in the</p>	<p>Comment noted. The regulations do not require inspection of private residences.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>garbage and garbage in the organics and provision of organics and recycling containers in all areas where disposal containers are provided. Our Ordinance acknowledges that a property owner or manager at a multifamily property does not have contro1 over the sorting behavior of their tenants and we only enforce against a lack of provision of service. There is also a higher expectation of privacy in residential settings. Early in our Ordinance enforcement, we attempted to inspect multifamily properties to verify provision of service and found that nearly half the time, we couldn't get to the hauler bins due to access issues.</p>	
6485	Balsley, R., StopWaste	<p>Our Ordinance provides for the granting of waivers for De minim us generation, physical space constraints, financial hardship if the costs will be more than 30%, emergency conditions and unavailable service. The draft 1383 regulations language that requires annual verification of these waivers divert inspection/staff resources to these smallest generators from the more important larger generators.</p>	<p>CalRecycle has revised the verification period to five years in response to this comment.</p>
6486	Balsley, R., StopWaste	<p>As it pertains to self-hauler requirements in Article 7, in our Ordinance implementation, we 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. We have over 400 accounts that we've approved for this alternative recycling collection. While some are larger corporate entities, many are small businesses that are trying to save money on collection costs by either taking their small amount of generated recyclables home or to a drop-off recycling facility. The requirement to collect annual source separated organics waste tonnage data from smaller businesses would not be possible from those that aren't keeping track of weights in back-hauling and is not worth the staff resources to try and track down.</p>	<p>Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements.</p> <p>Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.</p>
6487	Balsley, R., StopWaste	<p>Over time, we've honed our commercial inspection time to be on average about 15 minutes per site (not including the time by other staff to review and process the inspection results), but this is only because many times the inspector only needs to look through the hauler serviced bins that ate outside in publically accessible areas. Having to go into a business to verify that appropriately labeled indoor containers are in all areas and that education has been provided to employees annually would mean significantly more time needed per inspection and increased access issues. In our Ordinance enforcement, we determined that the inspection at the hauler-serviced bins was where it is most effective to see whether proper sorting was occurring and if a generator was properly sorting their materials, it shouldn't matter if they don't have color-coded bins or extensive signage. Penalties that indicate that CalRecycle can. fine jurisdictions if they don't enforce against generators indoor container specifics are inappropriate.</p>	<p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>

Comment Number	Received From	Question/Comment	Response(s)
6488	Balsley, R., StopWaste	<p>The current requirement to submit a massive amount of data for the January to June 2022 time period within one month of the end of the period is not doable. Our processing of citations sometimes has a 6 to 8 week lag.</p> <p>Also, many reporting provisions in franchises do not have that quick of a turn-around. Furthermore, in our MRO implementation, we regularly convey information about the enforcement and technical assistance activities that we conduct in our member jurisdictions, but to have to transfer copies of all inspection data, photos and copies of enforcement letters sent so that a jurisdiction is the sole holder of the Implementation Record would require massive data management systems that don't in and of themselves don't do anything to make progress on diverting organics from the landfill. We request that if a jurisdiction is designating another entity, such as us, to be responsible for major components of the requirements that they also be able to designate that entity as the holder of that portion of the Implementation Record. I also want to really encourage CalRecycle to think about how the massive amount of reporting data that's currently required is going to take away from the resources that could be used to affect behavior change and what's really needed to show that a jurisdiction is making the appropriate progress toward the statewide goals.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p> <p>A change to the regulatory text is not necessary. A central location for the implementation record is necessary to allow for timely, convenient and certain access to records and the proposed regulations state that jurisdictions are to provide access. If the record is under the control of a separate entity, the jurisdiction cannot provide that access.</p> <p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.</p>
6456	Barnes, K., City of Bakersfield	<p>The question of whether simple plastic bag barrel liners and food wrappers will be prohibited from organic containers in three-container systems. It is evident that food waste diversion programs with bags and wrappers divert more than those without by an order of magnitude. If the final regulations fully prohibit these items, it will not only retard CalRecycle's progress toward the goal; it will impact several of the largest existing food waste diversion programs in the state. We therefore urge CalRecycle to follow a universal principal found in most environmental regulations - the allowance of an effective alternative to prescriptive standards. In the case of the proposed SLCP regulations, one effective alternative could be the allowance of plastic bags and food wrappers if the composter can handle them and still meet CalRecycle's compost quality standards. As a jurisdiction, hauler, and composter that has achieved this high level of accomplishment, we say from experience that it would be counterproductive to follow the proposed regulations as they are written. Our effective diversion system is convenient for users, and it would make no sense to ban wrapped food or the use of plastic barrel liners through a costly inspection and enforcement system. In time, we are certain that more and more composters will rise to this level as they gain experience. Please enable this transition by not limiting the options.</p>	<p>The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The</p>

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			notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.
6457	Barnes, K., City of Bakersfield	<p>The consumption of excess fuel for diminishing returns on waste diversion. As a hauler with very solid and productive commercial food waste collection routes, we have determined that some generators are simply too small or too far from the core route to warrant the truck fuel to drive to them for separate types of collection. This is illustrated in the enclosed charts (one for diesel trucks and one for LNG trucks). Unfortunately, it seems as though the proposed regulations will "save global warming no matter how much fuel has to be burned". We caution CalRecycle to consider that the resulting system might not be the best in terms of transportation pollutants or overall energy consumption. Please enable the stakeholders to consider the overall welfare of the community by allowing some sort of exemption for excessive fuel consumption.</p>	CalRecycle has already provided for waivers related to low population. These waivers will address the issue of collection distances and thus excess fuel consumption.
6458	Barnes, K., City of Bakersfield	<p>Page 6, Section 18982(a)(55) and page 10, Section 18984(a)(1) and other related sections - The definition of "prohibited container contaminants" and terminology "organic waste only and not nonorganic waste" seem to prohibit plastic bags and plastic wrapped food waste from being placed in the organic collection containers of a three-container system. This will cause food scraps to stick and build up a thick layer in the organic collection containers. Food establishments will therefore undoubtedly refuse to place loose, un-bagged, food scraps in their organic containers due to sanitation needs and to avoid the labor of scraping and rinsing the containers after every collection event. Therefore, a solution is needed. One possible solution is the use of biodegradable plastic bags plastic bags for lining organic waste receptacles for customers as well as those in the back of the house at food establishments. However, this is problematic for three reasons.</p> <ul style="list-style-type: none"> a. Bags of heavy moist food scraps burst easily after being in storage, due to inherent limited shelf life of biodegradable plastic bags. b. Biodegradable bags cost roughly 7 times the price of regular plastic bags for barrel liners. c. Bio-bag production consumes large amounts of cornstarch, creating a larger GHG output outside of California. <p>Therefore, flexibility is needed to enable organic waste diversion systems to collect organic waste contained in plastic food wrappers or plastic bag barrel liners, provided the organic processing facility used by the system can meet CalRecycle's Title 14, section 17868.3.1 regulation for compost quality.</p>	<p>The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility. It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome. If the material cannot be recovered at a composting facility, it is technically inaccurate to identify the material as compostable. Compostable plastic liners that cannot be recovered and must be removed as a contaminant are functionally equivalent to plastic bags and would be viewed as such. Plastic bags are allowed under Section 18984.1(d).</p>

Comment Number	Received From	Question/Comment	Response(s)
6459	Barnes, K., City of Bakersfield	Page 13, Section 18984(a) through (d) - If plastic barrel liner bags are allowed for the reality of needing to keep organic collection containers clear of scum and build up in a three-container system, work is needed on to enable visual inspection of the organic wastes. One potential method is to use clear plastic bags rather than opaque colored bags.	<p>The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
6460	Barnes, K., City of Bakersfield	Page 13, Sections 18984.5 and 18984.6 – CalRecycle already controls compost quality through Title 14, section 17868.3.1. Compost cannot be sold or given away unless 99.5% free of manmade contaminants and 99.9% free of plastic film over 4 mm in size. Several major organic processing facilities currently produce and market compost meeting this standard using organic feedstocks still packaged in various types of material, and generally collected in plastic bags. To avoid unnecessary cost and to place effort on productive program promotion, these sections should only apply to those systems (made up of jurisdictions, haulers, and facilities) which are not compliant with Title 14, section 17868.3.1. Or more simply, those systems meeting Title 14, section 17868.3.1 should be exempt from these sections. Systems that expend time and resources on the futile battle of policing containers will be able to spend less on actually improving the compost process and increasing diversion.	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6461	Barnes, K., City of Bakersfield	<p>Page 15-16, Section 18984(a) – Add the following new subsection “A jurisdiction may waive a commercial business’ obligation to comply with some or all of the organic waste requirements of this article if the generator is a commercial business that provides documentation or the jurisdiction has evidence determining that the collection trip would be counterproductive in terms of collection vehicle fuel consumed per ton of organic waste collected. This determination shall be made by computing the diesel gallon equivalents (DGE) per ton for each mile of incremental travel distance from an established collection route to that business. The resulting DGE per ton efficiency shall then be compared to the average efficiency of the route. Collection trips with a DGE per ton exceeding 25% of the average DGE per ton efficiency of the route may be determined as exempt.”</p>	<p>A change regarding adding an additional waiver if the business’ collection vehicle consumption is greater than the per ton of organic waste collected because CalRecycle has already provided for waivers related to low population. These waivers will address the issue of collection distances. Also, CalRecycle added Article 17 to provide that a jurisdiction will be waived from specified articles and sections in the regulations if they can meet performance requirements specified in this new Article.</p> <p>Further, the Final Environmental Impact Report demonstrates that such a waiver is unnecessary. In order for a hauler to increase VMT to a level that would negate the GHG reductions of organic waste recycling, every truck would need to travel more than 3,000 miles further per trip than its current destination and incur a fuel cost of \$2,784. Ignoring the financial impracticality of material being hauled this distance, the analysis demonstrates that if organic waste generated in California is hauled to a compost facility in the western half of the United States a greenhouse gas reduction will still be achieved.</p>
6462	Barnes, K., City of Bakersfield	<p>Page 17, Section 18985.1(b) – Outreach and education of self-haulers should be done by the gatehouses at all recycling, transfer, and disposal facilities rather than be the responsibility of jurisdictions. Many self-haulers only haul occasionally and will certainly be in contact with the gatehouses, while they may never have any reason to be in contact with the jurisdiction. Likewise, jurisdictions have no basis to work from to identify self-haulers.</p>	<p>CalRecycle deleted requirements that jurisdictions specifically identify and educate self-haulers in response to this comment. Jurisdictions can meet the requirement to educate self-haulers by including information on self-hauling in their general education and outreach material provided to all generators. CalRecycle deleted language requiring solid waste facility operators to educate self-haulers as it would be overly burdensome and is outside the scope of what EAs monitor at solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction.</p>
6463	Barnes, K., City of Bakersfield	<p>Page 61 onward, Article 6.2, in related sections – Taking and analyzing one cubic yard samples of processed organic residuals is laborious, unproductive, and economically burdensome for the amount of potential benefit. One cubic yard holds 220 gallons. CalRecycle is already aware that the compost industry is having great difficulty with smaller volume (one gallon) testing related to Title 14 regulations on physical contaminants (PC) adopted in 2015. Testing of such large volume samples of raw collected organic wastes or processed residuals is out of the question. Furthermore, CalRecycle required dry weight measures for the PC testing. Obtaining dry weights of raw, putrescible organic materials requires heating samples to dry out, which is impractical.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>The weight basis (dry or wet) is not specified in the regulations, because it already specifies that the sample be “representative of a typical operating day” and “a random, composite sample taken either from various times during the operating day or from various locations within the pile.” Also, the number of samples taken will be leveling the daily variations due to the fluctuations in the moisture content in the sample and provide a more representative weight that will be reported quarterly.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
5011	Bartheld, E, American Forest & Paper Association	<p>On behalf of the American Forest & Paper Association (AF&PA) we are writing regarding the CalRecycle document, Summary of Changes Made to the Proposed Organic Waste Reduction Regulations list on page one of the changes made as: Removed restrictions on collecting plastic coated paper and textiles in the blue container.</p> <p>However, the proposed regulations on page 18 state: Article 5. Generators of Organic Waste Section 18986.1. Non-Local Entities Requirements... (1) The following shall not be collected in the green container or blue container: (A) Textiles, carpets, plastic coated paper, and human or pet waste.</p> <p>Please remove the reference on page 18 that restricts plastic coated paper from the blue container in this and all other sections, as we believe it was your intent to allow these materials to be accepted.</p>	Thank you for the comment. CalRecycle amended the applicable sections for consistency.
6017	Baysmore, G, Citizen from Oakland	Suggests expempting certain operations from BAAQMD regulations, including small backyard operations.	Comment noted, CalRecycle does not have the ability to exempt operations from the regulations of other environmental agencies.
6018	Baysmore, G, Citizen from Oakland	Suggests expempting certain operations from BAAQMD regulations, including larger operations that provide a community service such as those located on school sites, or at nonprofits, or co-ops.	Comment noted, CalRecycle does not have the ability to exempt operations from the regulations of other environmental agencies.
6019	Baysmore, G, Citizen from Oakland	Is concerned about the monopolistic nature of this contract	Comment noted. Comment does not appear directed at the regulatory text, but at a local waste contract
3129	Bell, J., Solano County	We recommend reducing the mandated oversight frequency from once per quarter to once per year. The LEA should be given more discretion to require operators to perform measurements and load checking, where authority is currently described in 14 California Code of Regulations Sections 17409.5.2 to 17409.5.8 and 17867 and 17896.44.1. The LEA is competent and able to prioritize inspections and the need for mandated verification and oversight, and where and when necessary will implement a quarterly verification program without the State Minimum Standard dictating so.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.

Comment Number	Received From	Question/Comment	Response(s)
3130	Bell, J., Solano County	<p>The regulation of haulers indirectly includes a regulatory compliance standard for all businesses participating. The responsibility of the generator, hauler and waste processors are intertwined. The development of a functioning and compliant waste management system is the goal. The proposed regulations are a positive start in the development of this functioning and compliant waste management system. There are substantial costs associated with the implementation of the proposed regulations. The high cost associated with the proposed regulations define this project as a "Major Regulation" (the projected cost exceeds 50 million dollars). The high cost of implementation is stated as being offset by the cost savings associated with public health improvements and reduced health care costs over time; however, these cost savings are not immediate, so implementation costs will not be offset for years. The regulations impose additional reporting requirements on the LEA, as well as a duplicative requirement for the LEA, generators, haulers, and processors to maintain a list of compliant business. LEA funding is primarily from tipping fees, and public health and health care costs have little impact on tipping fees. As such, reimbursement for the increased costs is expected to lag, requiring the LEAs to increase the rates charged to the regulated community.</p>	<p>Comment noted. Local Enforcement Agencies are already required to review records (load checking, tonnage, etc.) as part of the EA Roles and Responsibilities.</p>
3131	Bell, J., Solano County	<p>Garbage rates are increasing each year. Garbage rates for new franchise agreements in Solano County have escalated dramatically and include increased costs associated with regulatory requirements. If the estimated rate increases are found underestimated over time, this office recommends the use of existing AB32 Cap and Trade funding to assist with facility infrastructure and to keep the actual cost conveyed to rate payers at a minimum, as one of the benefits of this program is to decrease the generation of gas from organics in the landfills. The cost savings associated can be correlated and attributed to the reduction in climate changing pollutant emissions and can be quantified to provide financial incentives for the reduction of climate changing pollutants with the financial reward increasing accordingly with the amount of pollutant diversion.</p>	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
3132	Bell, J., Solano County	<p>The proposed regulations include procedures for inspection and cleaning schedules to minimize organic waste container contamination. Language in the proposed regulations requires the development of written procedures to implement an acceptable container management program. Education and outreach requirements are included in the proposed regulations. Listings of all businesses involved with the food recovery operations within each jurisdiction are required for development as part of the proposed regulations. The proposed regulations should focus on education and voluntary compliance and should have less emphasis on regulatory penalties for non-compliance.</p>	<p>The comment suggest removing emphasis on regulatory penalties for compliance, including for container contamination. The regulations do not require penalties for generators who contaminate containers. As a general practice, CalRecycle favors education and outreach first and penalty enforcement as a last resort.</p>
3133	Bell, J., Solano County	<p>Compliance evaluations and a mandated enforcement program are all tools which are included in the proposed regulations. As the program evolves, it is important to implement a review and update process to facilitate where goals are being met and to where slight changes or modifications may be necessary to facilitate reaching these ambitious diversion goals.</p>	<p>Comment noted. Comment is not recommending a regulatory text change.</p>
3134	Bell, J., Solano County	<p>Organic Waste Recycling and Capacity Planning should be streamlined and simplified as much as possible to reduce administrative cost throughout the project.</p>	<p>Comment noted, the comment does not request a specific change. However CalRecycle did amend the planning requirements to only require planning every 5 years.</p>
3135	Bell, J., Solano County	<p>Language should be included for a recommended annual review of the program, along with potential amendments to the existing regulations corresponding to the nuances and issues identified during the process. In this manner, the General Public, all businesses, and the regulatory agencies involved can work together towards a common and hopefully achievable goal.</p>	<p>Comment noted. CalRecycle declines to add this requirement as it will be evaluating the regulatory program on an ongoing basis and determining on an as-needed schedule whether amendments to the regulations are necessary.</p>
9087	Bell, K., Western Placer Waste Management Authority	<p>In addition to these comments, WPWMA generally requests that CalRecycle revise the proposed regulations to minimize the burden on facility operators; develop and support sustainable end-use markets; and establish a safe harbor for operating facilities regarding odor complaints related to organics handling and processing.</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>“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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.”</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>“With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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.</p> <p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additionally flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections 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)...”</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>“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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>meet the mandatory recovery target of 50 percent unless at least 50 percent of the organic waste collected from these services is recovered.</p> <p>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.</p> <p>Therefore, in order to meet the recovery targets specified in statute and the state’s ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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.”</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be “protected” or provided a “safe-harbor.” The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p>
9088	Bell, K., Western Placer Waste Management Authority	Section 17402(a)(6.6): “Gray container waste” or “Gray container collection stream” means solid waste that is collected in a gray container that is part of a three-container organic waste collection service that prohibits the placement of organic waste in the gray container. “Mixed waste organic collection stream” defined in 17402(a)(11.5) means organic waste collected in a blue container or a gray container. These definitions appear to be in conflict with one another. Recommend clarifying the materials that are allowable in the gray container.	CalRecycle has revised the definition “mixed waste organic collections stream” in response to comments. The mixed waste organic collection stream definition was revised to delete the different container colors in order to make the definitions consistent. The “gray container collection stream” is the collection of the solid waste in a gray container that is part of the three-container organic waste collection service that is intended to collect solid waste not organic waste but could have some organic waste that is inadvertently collected.
9089	Bell, K., Western Placer Waste	Section 17402(a)(7.5): “Incompatible materials or incompatibles” should include materials, organic or otherwise, for which no identifiable and sustainable markets	A change to the regulatory text is not necessary. The term “incompatible material” is used at transfer/processing facilities to determine the cleanliness of the organic waste recovered from the

Comment Number	Received From	Question/Comment	Response(s)
	Management Authority	exist, in addition to those materials for which the facility is not designed, permitted or authorized to perform organic waste recovery activities.	mixed organic waste collection stream and the source separated organic waste. Incompatible material is determined by what the end-user is designed, permitted, or authorized to receive and process. This is necessary so that the material sent out will be largely compatible with the facility for further processing.
9090	Bell, K., Western Placer Waste Management Authority	Section 17402(a)(11.5): "Mixed Waste Organic Collection Stream" means organic waste collected in a blue container or a gray container transported to a high diversion organic waste processing facility. The definition of "Gray Container Waste" per 17402(a)(6.6) prohibits the placement of organic waste in the gray container. This term is misleading, as it seems to refer to mixed organics when the intent is mixed waste that could include organics. Recommend removing "Organic" from the name so that it reads "Mixed Waste Collection System".	CalRecycle has revised the definition "mixed waste organic collections stream" in response to comments. The mixed waste organic collection stream definition was revised to delete the different container colors in order to make the definitions consistent. The "gray container collection stream" is the collection of the solid waste in a gray container that is part of the three-container organic waste collection service that is intended to collect solid waste not organic waste but could have some organic waste that is inadvertently collected.
9091	Bell, K., Western Placer Waste Management Authority	Sections 17409.5.2, 3, 4, 5, 6, 7, 8: The daily measurement requirements contained in these sections is overly onerous, burdensome, and costly to facility operators. The waste stream does not vary drastically over short periods of time and it stands to reason that such waste composition studies could be conducted much less frequently and still provide representative data. CalRecycle has previously implemented similar measurement and testing protocols before vetting, as with the recent compost contaminant regulations. CalRecycle needs to explain how this measurement data will be reviewed and used.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.
9092	Bell, K., Western Placer Waste Management Authority	Clarify each "organic waste type" for which cubic yard samples must be taken.	CalRecycle staff has noted the comment. Section 18982(a)(46) defines what material is considered organic waste for the purpose of these requirements. Organic waste includes solid waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscaping and pruning waste, organic textiles and carpet, lumber, wood, paper produce, print and writing paper, manure, biosolids, digestate and sludge.
9093	Bell, K., Western Placer Waste Management Authority	The WPWMA recommends no more frequent than semi-annual measurement with the primary focus on the organic content of materials destined for disposal.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling.

Comment Number	Received From	Question/Comment	Response(s)
			<p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days per quarter instead of daily 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 get the needed data. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
9094	Bell, K., Western Placer Waste Management Authority	Section 17409.5.6: Many existing organics facilities do not have room to separate similar types of material by origin. Requiring segregation of similar materials is impractical and burdensome to facility operators	<p>Comment noted. In order to accurately determine if a facility is meeting the organic waste recovery requirement, waste streams must be kept separate until sampling measurements have been taken.</p> <p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
9095	Bell, K., Western Placer Waste Management Authority	Section 17409.5.11: The requirement for one load check per day per 500 tons per source sector is extremely onerous. Additionally, there will be no gray cart in a 2-cart system; clarify whether this loadcheck requirement will apply to the blue cart in a 2-cart system.	CalRecycle has deleted the loadchecking requirement Section 17409.5.11 in response to comments.
9096	Bell, K., Western Placer Waste Management Authority	Section 17414.2(c): 3-year record retention requirement conflicts with 5-year retention required in Section 17869. Recommend a single retention period of 3 years for all records related to the regulation.	CalRecycle has revised Section 17414.2 in response to comments. The change requires records be accessible for five years. This change will align with the adopted AB 901 regulations (RDRS).
9097	Bell, K., Western Placer Waste Management Authority	Section 17867(a)(2): The regulations will result in the composting of new and increased waste streams, which could alter a facility's odor profile. Additionally, the impact of odors on receptors considered a "nuisance" is subjective, the potential for which can never be eliminated.	A change to the regulatory text is not necessary. The comment is not relevant because this is an existing regulation text and CalRecycle is not proposing a revision to this standard. This is not within the scope of this rulemaking.

Comment Number	Received From	Question/Comment	Response(s)
		Recommend revising this Section to read as follows: "All handling activities shall be conducted in a manner that minimizes odor impacts so as to reduce the potential for causing a nuisance."	
9098	Bell, K., Western Placer Waste Management Authority	Section 17867(a)(4): The requirement for multiple daily loadchecks remains burdensome to facility operators. However, we appreciate that the LEA will have the discretion to approve an alternative loadcheck frequency.	CalRecycle has deleted the loadchecking requirement from this section in response to comments.
9099	Bell, K., Western Placer Waste Management Authority	Section 17869(a): 5-year record retention requirement conflicts with 3-year retention required in Section 17414. Recommend a single retention period of 3 years for all records related to the regulation.	CalRecycle has revised Section 17869(a) in response to comments. The change requires records be maintained for five years. This change will align with the adopted AB 901 regulations (RDRS).
9100	Bell, K., Western Placer Waste Management Authority	Section 18982(a)(33): The term "High Diversion Organic Waste Processing Facility" is misleading. It appears that the intent of this term is to mean a facility that processes mixed solid waste, organic or otherwise. Recommend removing "Organic" from the name so that it reads "High Diversion Waste Processing Facility". Clarify the 50% diversion requirement – does it refer to the diversion of all waste received at the facility, or just the organic fraction of the waste stream?	A change to the regulatory text is not necessary. The term "high diversion mixed waste processing facility" is not used in the proposed regulations. The term "high diversion organic waste processing facility," which is used and defined in Section 18982(a)(33). The term "High Diversion Organic Waste Processing Facility" refers to transfer/processing facilities that meet the 50% by 2022 or 75% by 2025 organic waste recovery efficiency standard for a mixed waste organic (MO) collection stream. The 50/75% refers to recovery of organic waste after processing of material from the MO collection stream.
9101	Bell, K., Western Placer Waste Management Authority	Section 18982(a)(46): The definition of "organic waste" should only include visually identifiable, readily compostable materials. The definition in this section is inconsistent with AB 901 Section 18815.2(a)(39) "Organics", which does not include textiles and carpets. Textiles, carpets, and similar materials should not be considered "organic" unless they are easily visually identifiable as organic. Testing to determine the fiber types of those materials is difficult and impractical; processing facility employees should be able to easily and quickly identify organic materials at the scalehouse. Additionally, these materials are not readily compostable, which is likely the main way processing facilities will be handling organics. Materials that have been processed to the point where methane is depleted or reduced to a specified level, such as digestate produced from anaerobic digestion, should no longer be classified as "organic" and subject to landfilling limitations. Additionally, solid waste facilities are required to make the distinction between treated and untreated wood waste; CalRecycle should also make that distinction as those materials may not be sent to the same facility and/or may be sent to different end uses, not only landfills. Recommend that treated wood waste not be classified as organic waste.	Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute. Comment noted. The regulations are structured to specify material that cannot be collected in certain containers, e.g. glass cannot be collected in green containers with organic waste. Further, the regulations define organic waste however they do not specifically require organic specific materials to be collected together, e.g. the regulations do not require food and textiles to be collected together. The regulations allow jurisdictions to source separate materials that are recoverable when mixed together The definition of organic waste itself does not govern how specific types of materials are handled. The definition identifies which materials are organic waste. The active text of the regulation, not the definition, controls how material is handled. Nothing in the regulatory text requires textiles or dead animals to be placed in the green container.

Comment Number	Received From	Question/Comment	Response(s)
			<p>The regulations already allow organic waste, which can include non-hazardous wood and dry lumber, to be included in the green container. The regulations also already allow for non-hazardous wood and dry lumber to be included in the blue container.</p> <p>Regarding treated hazardous wood waste, CalRecycle revised Section 18984.1 to add a new subsection indicating that this material should not be allowed in the blue container.</p>
9102	Bell, K., Western Placer Waste Management Authority	Section 18983.1: Recommend including additional alternative technologies that could divert materials from landfills and reduce short-lived climate pollutants, such as pyrolysis or gasification, to handle sludges and other materials that may be problematic to compost or otherwise market.	CalRecycle concurs that maintaining flexibility for other recovery processes, not specifically identified in section 18983.1(b), which may still constitute a reduction of disposal of organic waste and can achieve equivalent greenhouse house gas reduction that meets or exceeds the baseline of 0.30 MTCO ₂ e per short ton. Therefore, the proposed regulations include Section 18983.2 Determination of Technologies That Constitute a Reduction in Landfill Disposal as a pathway for including additional activities and technologies.
9103	Bell, K., Western Placer Waste Management Authority	Section 18983.2: The regulation states that emission reductions from alternative uses must equal those of compost. CalRecycle should provide the methane reduction calculations for compost to establish a baseline, justify these requirements and demonstrate CalRecycle's position that compost achieves the greatest methane reductions. The emissions reductions in Section 18983.2(a)(3) may be overly stringent and may limit or eliminate the possibility of employing alternative technologies which could still serve to divert organics from landfills and significantly reduce short-lived climate pollutants. Suggest removing this requirement or allowing discretion for higher limits by reviewing agency.	<p>Several commenters suggested using avoided landfill emissions as the benchmark in the determination of processes or technologies that constitute a reduction in landfill disposal. Although this proposal might increase diversion of organics from landfills, it would not achieve the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 or the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO₂e per short ton organic waste was set to ensure emission reductions for any new process or technology are comparable to the emission reductions necessary to achieve the strategy's emission reduction goal of 4 MMTCO₂e for this sector.</p> <p>Several stakeholders submitted comments that indicate confusion about how the 0.30 number was calculated. To provide greater clarity, staff provide a detailed description about the calculation of this number in the guidance doc referenced in the FSOR.</p>
9104	Bell, K., Western Placer Waste Management Authority	Section 18984.1(a)(5)(A): Prohibits collection of carpets, non-compostable paper and hazardous wood waste in the green container. No longer prohibits collection of human and pet waste, as included in Section 30.1(a)(5)(A) of the May 2018 draft regulations. Recommend revising to prohibit human and pet waste in the green container.	<p>If the Local Enforcement Agency determines that a material type cannot be safely recycled, then a jurisdiction would be allowed to list that material as not acceptable. Additionally, during the informal workshops many other stakeholders stated that they have programs for these material types. Further human and pet waste are not required to be measured as organic waste for the purpose of measuring contamination in 18984.5. With respect to human and pet waste, a jurisdiction may prohibit human waste in the green or blue container in a 3-container system and in the green container in a 2-container system. This change is necessary in order to support jurisdiction efforts to minimize public health impacts.</p> <p>This revision does not apply to pet waste, as many jurisdictions collect manure and take this material to processing facilities that have to meet pathogen reduction requirements.</p>
9105	Bell, K., Western Placer Waste Management Authority	Section 18984.2: Recommend inclusion in this Section of the same language in Section 18984.3(e) allowing organic waste specified for collection in the blue container to be placed in bags.	<p>The regulations allow bags to be used in the blue or gray containers with no additional requirements. The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
9106	Bell, K., Western Placer Waste Management Authority	Section 18984.5(a)(2): Allows a hauler to dispose of green or blue container contents if visible prohibited container contaminants are observed. Clarify that facilities accepting this waste for disposal will be allowed to dispose of such loads without being required to process the load and/or without being penalized for accepting the load, and that haulers should be required to notify processing/disposal facilities of each such load.	Yes, facilities operators can accept containers that contain visible prohibited container contaminants. However, if a load containing visible prohibited container contaminant is received on a day that the operator is performing the measurements protocol then that load would be included in the sampling and measurement protocol used to determine the amount of organic waste sent to disposal. The operator would be required to record the results of the measurement and report the percentage of organic waste sent to disposal.
9107	Bell, K., Western Placer Waste Management Authority	Section 18987.2: Biosolids should also be allowed to be transported for use in alternative technologies identified in Section 18983.2. Recommend revising Section 18987.2(a)(1) to read as follows: "Transported only to a solid waste facility of operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 18983.1(b) or Section 18983.2 of this division."	CalRecycle has deleted Section 18987.2 in response to comments
9108	Bell, K., Western Placer Waste Management Authority	Section 18987.2(a)(2): Clarify that permitted disposal facilities receiving sewage sludge and biosolids not suitable for additional processing or recovery will not be penalized for accepting said materials.	CalRecycle has deleted Section 18987.2 in response to comments
9109	Bell, K., Western Placer Waste Management Authority	Section 18990.1: This section appears to prohibit facilities from rejecting organic wastes from outside jurisdictions. Facilities must be able to maintain control of the source of waste to ensure sufficient processing and disposal capacities for host jurisdictions. Clarify this section to ensure that facilities can maintain flow control or other agreements to reserve processing and disposal capacity for local use and that facilities are not required to accept materials from outside jurisdictions.	<p>Section 18990.1(c)(4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery.</p> <p>Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law.</p>

Comment Number	Received From	Question/Comment	Response(s)
9110	Bell, K., Western Placer Waste Management Authority	Section 18993.1(f): Recommend the inclusion of electricity, biochar, wood chips, mulch and other landscaping products in the recovered organic waste products that could be procured by jurisdictions, in addition to compost and renewable transportation fuel.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>However, CalRecycle disagrees with adding other products as listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products.</p>
9111	Bell, K., Western Placer Waste Management Authority	Section 20700.5: While the WPWMA appreciates inclusion of an LEA-approved equivalent alternative to the 36" earthen material requirement. Not only is this operational requirement financially burdensome to landfill operators, but the addition of 36" of material may exceed a facility's final fill grades and reduce overall landfill capacity. The WPWMA maintains that CalRecycle must prove that use of 36" earthen material is effective in reducing methane emissions prior to enacting this requirement. Clarify that the addition of this material will not serve to reduce a landfill's permitted airspace.	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>
9112	Bell, K., Western Placer Waste Management Authority	Section 21695: CalRecycle should evaluate impacts of the regulations on landfills prior to implementing the regulations rather than putting the financial burden on facilities after the regulations have been implemented. Joint Technical Document (JTD) revisions are costly and time-consuming for facility operators. Facilities should be able to address any necessary JTD revisions resulting from the regulations as part of the normal 5-Year Solid Waste Facility Permit Review process.	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations</p> <p>This standard is not duplicative of a five-year review. The purpose of the SIR is to assist operators better understand the potential impact the proposed regulations could have on their landfill which is different than the five-year review. A five-year review is completed by the EA every five years from the last review and evaluates (among other things) the information provided in the application for the proposed facility to determine whether or not the facility will be able to operate in accordance with state minimum standards and permit terms and conditions.</p> <p>Whereas, the SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order properly implement any changes or modifications to the landfill in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p>

Comment Number	Received From	Question/Comment	Response(s)
			In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills.
1047	Bell, Kevin Placer County Public Works	The amount of prescriptive detail contained in the regulation goes far beyond what is necessary to achieve the goal of increased organics diversion. Similar to AB 939, jurisdictions should be afforded more flexibility to identify and implement programs.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
1048	Bell, Kevin Placer County Public Works	The regulation imposes requirements on jurisdictions that we believe the Legislature did not grant to CalRecycle, such as requiring ordinances, procurement of organic materials, and refusing to allow consideration of good faith effort.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
1049	Bell, Kevin Placer County Public Works	The extent of the regulation is unreasonable considering the landfill sector's contribution to statewide emissions compared to other sectors that are not yet regulated. The requirements should be commensurate to the statewide impact.	Commenter is expressing an opinion regarding the focus on landfill emissions. This is a statutory issue rather than one related to the scope of the regulations. The SB 1383 statute is designed to address landfill emissions and CalRecycle is under a mandate to implement those requirements.
1050	Bell, Kevin Placer County Public Works	The requirements would force the County that currently utilizes a one-container system, to provide a two- or possibly three-container system, significantly increasing traffic related emissions and potentially decreasing diversion (gray containers to landfill instead of sorted). This seems contrary to the goal of this regulation.	The draft regulations allow for a jurisdiction to use an unsegregated single-container collection service. See Section 18984.3 of the regulations.
1051	Bell, Kevin Placer County Public Works	We object to the purchasing targets. There are better ways to develop markets through procurement policies and focus on sectors (e.g. State agencies) with greater demand.	Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot

Comment Number	Received From	Question/Comment	Response(s)
			<p>supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
1052	Bell, Kevin Placer County Public Works	The documentation and reporting requirements should be achievable through the existing Electronic Annual Report, which is more efficient than creating a new system and entirely sufficient for CalRecycle to oversee progress.	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.
1053	Bell, Kevin Placer County Public Works	There must be consideration in the regulation for the National Sword impacts, particularly in regard to its impact on paper markets.	Comment noted. Commenter is expressing an opinion regarding the overall scope of the proposed regulations but is not proposing specific language or a particular method to address National Sword impacts.
1054	Bell, Kevin Placer County Public Works	The regulation places a disproportionate burden on jurisdictions as compared to state agencies; e.g., no penalties are placed on state agencies that fail to comply.	Comment noted. Commenter is expressing an opinion regarding the overall scope of the proposed regulations but is not proposing specific language. The SB 1383 language did not clearly provide authority to impose penalties on state agencies.
1055	Bell, Kevin Placer County Public Works	For processing facilities to construct, expand, and process additional types and volumes of organic wastes, CalRecycle needs to ensure that facilities are protected from odor complaints, increasing regulations, and contamination standards.	CalRecycle has noted the comment. The effects of possible future odor compliance or regulations are not within the scope of this rulemaking.

Comment Number	Received From	Question/Comment	Response(s)
1056	Bell, Kevin Placer County Public Works	The definition of “organic waste” should be consistent with current state law and should not include textiles and carpets, biosolids, digestate, and sludges. Many carpets and textiles now are wholly or in part made up of synthetic materials, not visually identifiable as organic, and not compostable. Facility testing to determine the fiber types of those materials is difficult and impractical. Expecting the general public to differentiate between these types of materials when putting them in waste bins is impractical, if not impossible.	CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. Regulations adopted by other agencies or codified in other portions of statute, can employ a different definition for a different purpose. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
1057	Bell, Kevin Placer County Public Works	More importantly, there is already a California Carpet Stewardship Program for carpet. CalRecycle should instead work with the stewardship organization to ensure the carpet program is successful and meets its legal obligations, as customers are already paying a fee in good faith for this program. Jurisdictions should not be responsible for a producer responsibility program that has failed.	Carpet is not required to be measured as organic waste for purposes of measuring organic waste sent to disposal.
1058	Bell, Kevin Placer County Public Works	The definition of “organic waste” should also not include materials processed to the point where its methane potential is degraded to a specified level (e.g. digestate and sludge).	Comment noted. Digestate and sludge are organic wastes by definition and may still produce methane if disposed.
1059	Bell, Kevin Placer County Public Works	Among other things, this definition includes unnecessary items such as carpet, hazardous wood waste, and non-compostable paper that could be excluded from the regulation. The definition should also include textiles, biosolids, digestate, and sludges and any such materials that cannot either be visually identified as organic, easily collected, or effectively processed by organics facilities.	The comment relates to the "prohibited container contaminants" definition in 18982(a)(55) and is designed describe materials that cannot be composted. The list of materials in the comment suggested to be included CAN be composted.
1060	Bell, Kevin Placer County Public Works	Contaminants should also include human or pet waste.	If the Local Enforcement Agency determines that a material type cannot be safely recycled, then a jurisdiction would be allowed to list that material as not acceptable. Additionally, during the informal workshops many other stakeholders stated that they have programs for these material types. Further human and pet waste are not required to be measured as organic waste for the purpose of measuring contamination in 18984.5.
1061	Bell, Kevin Placer County Public Works	The purpose of creating this definition is unclear, particularly considering how the term is used in Article 13. As defined, “Self-hauler” is so broad that it could describe nearly every resident, business, government facility, or other entity in California. For example, it would include a person who transported their own empty beverage containers to a CRV redemption center. We ask that CalRecycle remove this definition.	The “back-haul” definition is intended simply to clarify a portion of the definition of “self hauler” and the definition itself is not the appropriate mechanism to place specific requirements on how self-hauling or back-hauling is conducted. Furthermore, Public Resources Code Section 40059(a)(1) specifically places aspects of solid waste handling which are of local concern, such as means of collection and transportation, within the local control of counties, cities, districts, or other local governmental agencies. In addition, SB 1383 (in Public Resources Code Section 42654) specifically states that nothing in these regulations abrogates or limits the authority of local jurisdictions to enforce local waste transportation requirements. Commenters asked CalRecycle to consider whether the definition of self-hauler is needed since it is so broad. If it is needed, the

Comment Number	Received From	Question/Comment	Response(s)
			<p>definition needs to be revised and it needs to be clarified on how the Department will be getting information from jurisdictions about the self-haulers.</p> <p>Section 18994.2(f)(4) regarding reporting on the number of self-haulers by the jurisdiction was deleted. However, the definition in Section 18982(a)(66) is still needed.</p>
1062	Bell, Kevin Placer County Public Works	<p>In addition, the tracking of self-haulers in this regulation is not necessary. Businesses that self-haul organic waste, for the most part, are currently identified and monitored through AB 1826 implementation and AB 901 reporting, which should be sufficient. It is unclear how jurisdictions are to identify self-haulers outside of these methods.</p>	<p>Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements.</p> <p>Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. Therefore, CalRecycle deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.</p>
1063	Bell, Kevin Placer County Public Works	<p>We appreciate the revised language in Section 18983.1 to specify that material known as “Material Recovery Fines” do not constitute landfill disposal when they are used as cover material. As previously commented, due to the nature of the material, there is no diversion market but the material serves a useful purpose as cover material. Additionally, as organics programs increase, the amount of organic materials in fines will only decrease.</p>	<p>Comment noted. The use of organic waste as alternative daily cover constitutes landfill disposal of organic waste. Language was added to clarify that use of non-organic materials does not constitute landfill disposal of organic waste. Facilities are not required to remove organic material from MRF fines. Facilities are required to sample material they send to disposal to determine the portion of organic waste they are sending to disposal. Pursuant to the sampling requirements in the regulations a representative sample of material sent to disposal must be sampled to determine the level of organic waste disposed. This includes sampling of material sent to for use as alternative daily cover. Only the organic fraction of the material sent to disposal is measured as disposal of organic waste. Language was added to clarify that disposal of non-organic materials does not constitute landfill disposal of organic waste.</p>
1064	Bell, Kevin Placer County Public Works	<p>We also appreciate the addition of revegetation and slope stabilization to allow uses of organic waste. This acknowledges the benefit of compost when used in these applications and further supports that CalRecycle should focus on developing compost markets where there is more demand, and not forcing specified amounts of organic procurement on jurisdictions with limited demand.</p>	<p>Thank you for your comment. Procurement is an important component of the proposed regulations and the ability of the state to meet these goals.</p>
1065	Bell, Kevin Placer County Public Works	<p>We are generally opposed to having to justify specific technologies. SB 1383 specifically states that the statewide goal is to “reduce the landfill disposal of organics” and nowhere indicates that certain technologies are preferable over others.</p>	<p>A change to the regulatory text is not necessary because a change that is responsive to the comment’s request would not enable the State to meet the methane emissions reduction target required by SB 1383. As noted in the Initial Statement of Reasons, the purpose of this regulation is to divert organics from landfill disposal, while at the same time ensuring that the State meets the methane emission reduction targets established in SB 1383 and outlined in the Short-Lived Climate Pollutant Reduction Strategy.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Recovery technologies that result in less emissions reductions than composting will not ensure that the State meets the emissions reduction target of 4 MMTCO _{2e} from organics diversion set forth in the strategy.
1066	Bell, Kevin Placer County Public Works	The regulation requires a facility to determine the methane reduction potential of a proposed activity (if not already specified as reduction in the regulation). If entities are required to do this to justify that their proposed activity reduces methane, CalRecycle should do the same to support that recovery of the additional materials included in the definition of "organic waste" also reduces methane. If CalRecycle cannot or will not do that, those materials should be removed from the definition.	The comment is conflating two different requirements. The methane reduction potential is designed for consideration of alternative methods that may constitute a reduction in landfill disposal. In order to consider other alternatives, the regulations need to ensure that these alternatives will actually divert organic waste from landfills and will also reduce methane emissions consistent with existing methods such as composting and anaerobic digestion. The definition of "organic waste," on the other hand, is designed for purposes of determining what material is subject to the regulations.
1067	Bell, Kevin Placer County Public Works	The approval of a proposed technology depends entirely on a pass/fail conclusion that the technology results in emissions reductions equal to or greater than 0.30 MTCO _{2e} per ton, described in the Initial Statement of Reasons (ISOR) as the GHG reduction achieved by composting mixed organic waste. Assuming that the ISOR calculations are correct in setting this benchmark for mixed organic waste, the methodology will likely prevent the use of valuable technologies that target the most problematic items –those that do not compost well, such as organic carpet or lumber. These materials, which release little carbon to the atmosphere, could easily fail to pass the 0.30 MTCO _{2e} hurdle. The rigid 0.30 MTCO _{2e} standard could therefore hinder the achievement of the goals stated in SB 1383. We ask that this section be revised to provide the CalRecycle Director more flexibility for approval of proposed processes and technologies.	Several commenters suggested providing more flexibility to consider new technologies that target diversion of source-separated organic materials that do not compost well such as carpet or lumber, and that have a lower methane emissions reduction potential than mixed organic waste decaying in a landfill. The point of utilizing the greenhouse gas reductions associated with composting as a threshold was not to incentive composting, but rather to set a reasonable threshold for ensuring that the regulation incentivizes the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 and the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO _{2e} per short ton organic waste was set to ensure emission reductions for any new technology are comparable to the emission reductions necessary to achieve the strategy's emission reduction goal of 4 MMTCO _{2e} for this sector.
1068	Bell, Kevin Placer County Public Works	It is unclear why mandating the color of containers used is necessary at all to achieve diversion of organics. Jurisdictions have been implementing recycling programs for decades and it is not necessary or reasonable to have state oversight or rigidity of this level. We recommend the container, labeling, and outreach requirements be significantly simplified.	The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery. See statement of purpose and necessity for Article 3 and for Section 18984.1 -18984.7.
1069	Bell, Kevin Placer County Public Works	We appreciate the revision to allow the container color requirement to be met with a container or lid. But this assumes that traditional, or similar, containers can be utilized in all communities, which is not always practical. For example, in Placer County's Tahoe Basin, waste is collected in standard metal or plastic garbage cans (like those available at hardware stores), purchased by the customer because they fit in bear-resistant sheds, which are crucial in that area. As long as the different containers are easily distinguished, statewide consistency in colors is not needed.	The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery. See statement of purpose and necessity for Article 3 and for Section 18984.1 -18984.7.

Comment Number	Received From	Question/Comment	Response(s)
1070	Bell, Kevin Placer County Public Works	These requirements are excessive and beyond the scope of SB 1383. The prescriptive requirements limit the ability for jurisdictions to change outreach messages when needed.	<p>These requirements are necessary to ensure that generators place the correct materials in the correct bins. This is universally known as a problem in the current hauling system (bin contamination) and is directly related to the success of these programs.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.</p>
1071	Bell, Kevin Placer County Public Works	Markets are changing, as we are currently seeing with the National Sword policy, and permanent labels, especially imprinted ones, cannot be updated as markets change.	<p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>he current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
1072	Bell, Kevin Placer County Public Works	Imprinted labels are also not possible on the garbage cans in our Tahoe area (described above), and are an unreasonable and expensive burden on our ratepayers if new containers with imprinted messaging have to be provided.	<p>Thank you for the comment regarding the additional time, great cost savings, and easier compliance with the container color and label requirements. That comment is in support of current language.</p> <p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>he current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
1073	Bell, Kevin Placer County Public Works	Affixed labels (e.g. stickers) are also not practical. Haulers report they do not last and would have to be constantly maintained and replaced.	<p>Thank you for the comment regarding the additional time, great cost savings, and easier compliance with the container color and label requirements. That comment is in support of current language.</p> <p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p>

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1074	Bell, Kevin Placer County Public Works	This is overall too excessive, and jurisdictions should be allowed to develop container systems and outreach programs that suit their programs and communities best, as they currently are able to do.	<p>The statutory sections described in the comment are informational requirements rather than specific purchasing requirements and there is no conflict with the proposed regulations. Nor is there any explicit Legislative intent expressed in these sections to limit other measures to achieve viable end use markets for recycled material. These statutory sections, if anything, evidence the Legislature's recognition that procurement of recycled material is critical in increasing end use markets.</p> <p>PRC 41074, 41204, 41374, and 41404 are not conflicting procurement mandates or an explicit provision for local authority over procurement but are instead informational requirements to be included in various elements of Countywide Integrated Waste Management Plans (CIWMP). What these portions of the CIWMP elements do is to require a descriptive narrative of methods, if any, which will be used to increase markets for recycled materials. Nothing in these sections are specific to the exact types of materials included in the proposed procurement requirements in the</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>proposed SB 1383 regulations nor do they place any conflicting requirements on levels of procurement.</p> <p>PRC Section 40913 requires CalRecycle to develop a program to assist local agencies in the identification of markets for materials diverted from disposal through source reduction, recycling and composting. It is not a specific procurement requirement, but rather a general informational requirement placed on CalRecycle to assist local government in finding end use markets for materials diverted from disposal. The requirement is not specific to any particular type of recycled material and there is no limitation evidenced in the statute that restricts other types of requirements for end use markets for recycled material.</p> <p>PRC Section 42600 requires CalRecycle to develop a statewide public information and education program to encourage participation by the general public, business, government, and industry in all aspects of integrated waste management. One component of this program is to “[e]ncourage local government procurement of products containing recycled materials...” Again, this is a general informational requirement rather than a procurement requirement, is not specific to any particular type of material, and evinces no intent by the Legislature to limit or restrict other measures to develop end use markets for recycled material.</p>
1075	Bell, Kevin Placer County Public Works	<p>The County very much appreciates CalRecycle’s openness to additional waivers. Pursuant to recent communications with CalRecycle and Rural County Representatives of California, we recommend an additional exemption for communities that are located at higher elevations (i.e. bear habitat) where bears pose a health and safety risk related to food waste collection. The “bear exemption” can be limited to smaller businesses that generate up to 4 cubic yards solid waste per week, where the jurisdiction has determined that it is not feasible to provide the business with a bear-proof container, and all residents. Placer County submitted a formal waiver proposal to CalRecycle on July 3, 2018.</p>	<p>CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826.</p> <p>As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes.</p> <p>Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. This comment argued that the limited space of locked bear boxes, which this commenter’s jurisdiction uses to secure garbage bins, creates a capacity issue. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, nothing prevents the jurisdiction from providing smaller containers that could fit inside bear boxes.</p>
1076	Bell, Kevin Placer County Public Works	<p>Although CalRecycle has granted Placer County the ability to utilize the exemption pursuant to PRC 42649.82(e)(3)(D) (AB 1826) for businesses that generate 2-4 cubic yards solid waste per week for this purpose, we urge CalRecycle not to limit the SB 1383 “bear exemption” to generators that generate less than 2 cubic yards solid waste per week, as CalRecycle has alluded to, because having exemptions in two laws/regulations will create confusion.</p>	<p>CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826.</p> <p>As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and</p>

Comment Number	Received From	Question/Comment	Response(s)
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1077	Bell, Kevin Placer County Public Works	We appreciate the inclusion of the Low Population waiver. However, while this waiver works in many areas, we recommend there also be an allowance for additional low population areas that have fewer than 50 people per square mile but are located within a census tract with greater density. We recommend CalRecycle allow submittal of reasonable jurisdiction-proposed alternatives for low population communities.	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
1078	Bell, Kevin Placer County Public Works	It is unlikely that circumstances in low population areas will change within two years. We recommend a five-year cycle for renewal of these waivers, instead of the proposed two-year renewal requirement.	<p>CalRecycle agrees that most low-population areas that are granted a waiver by CalRecycle are likely to remain as qualifying low-population areas for longer periods of time; allowing a waiver to be operational for a longer period of time is warranted and will reduce the costs of compliance. CalRecycle has made a language change in response to this comment. After the change was made, commenters were in support that low population waivers are good for five years instead of two.</p>
1079	Bell, Kevin Placer County Public Works	Regarding the requirement that appropriate language outreach is required if more than 5% of a community is defined as "Limited English Speaking Household" or "linguistically isolated" – please define "community". For example, do you mean more than 5% of a jurisdiction, a census tract?	<p>Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.</p>
1080	Bell, Kevin Placer County Public Works	We strongly recommend that jurisdictions be able to develop and implement their own outreach messages and methods that suit their programs and communities best. There is no compelling reason that jurisdictions cannot do this and report their efforts via the existing Electronic Annual Report (EAR). Dictating the specific	<p>CalRecycle determined that baseline outreach requirements and container labeling are necessary for statewide consistency.</p>

Comment Number	Received From	Question/Comment	Response(s)
		messaging, such as in the container labeling requirements, is over-controlling and allows no flexibility to make changes to adjust to changes in markets, diversion programs, or other conditions.	
1081	Bell, Kevin Placer County Public Works	The record keeping and reporting requirements are excessive. Documenting and uploading of a jurisdiction's outreach through existing methods (EAR) is far more reasonable and entirely appropriate.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
1082	Bell, Kevin Placer County Public Works	This section does not clearly enough indicate that it does not apply to self-haulers. Local jurisdictions should not be put in the position of enforcing this statute against residents that self-haul their organic waste. Those of us implementing these regulations are not clear how we would even accurately identify all the residential self-haulers.	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.
1083	Bell, Kevin Placer County Public Works	We would respectfully request that the department take the same approach that it did in the AB 901 regulations and only apply the provisions to commercial self-haulers. Local jurisdictions won't have the ability to enforce this requirement without this change.	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.
1084	Bell, Kevin Placer County Public Works	Neither SB 1383 nor CALGreen requirements mandate that jurisdictions adopt an ordinance or other enforceable requirement. Jurisdictions already have the	CalRecycle has been given specific authority under SB 1383 to require jurisdictions to impose requirements upon generators. The regulations do not require CalRecycle to enforce the CalGreen Building Code or MWELo. The regulations impose a requirement that jurisdictions adopt an

Comment Number	Received From	Question/Comment	Response(s)
		<p>authority and legal requirement to enforce building codes, including enforcement of the CALGreen Building Code.</p>	<p>ordinance or other enforcement mechanism that requires compliance with certain provisions of the CalGreen Building Standards Code and MWELo. Nothing in statute or regulation mandates that solid waste Local Enforcement Agencies enforce these requirements.</p> <p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.”</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. [The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
1085	Bell, Kevin Placer County Public Works	As proposed, this section appears to prohibit facilities from rejecting organic waste from outside jurisdictions. It is imperative that facilities be able to control the source of materials and ensure processing capacity for the host jurisdiction or county	<p>Section 18990.1(c)(4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery.</p> <p>Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law.</p>
1086	Bell, Kevin Placer County Public Works	We request that Section 18990.1(b)((2) be amended to clarify that it does not restrict a facility’s ability to implement flow control or other agreements to reserve organic processing capacity for local use and that nothing in the chapter forces a jurisdiction or facility to accept organic material outside its jurisdiction.	<p>Section 18990.1(c)(4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery.</p> <p>Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law.</p>
1087	Bell, Kevin Placer County Public Works	It is common knowledge that California does not have sufficient infrastructure capacity today to handle the amount of organics to be diverted from landfills to meet the goals of AB 1826 and SB 1383. In addition to being costly, the facilities are	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included

Comment Number	Received From	Question/Comment	Response(s)
		difficult to site and can take several years to complete the permitting process. To place the responsibility of providing sufficient capacity entirely on local jurisdictions is not realistic. This effort will require both state involvement and funding.	provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
1088	Bell, Kevin Placer County Public Works	Organics capacity calculations – it is unclear if the existing online calculator will still be available.	A change to the regulatory text is not necessary because the comment is about an existing on/line tool, which will remain available.
1089	Bell, Kevin Placer County Public Works	The reporting timeframes in Section 18992.3 overlap in several cases, e.g. it is unclear why we would be required to plan and report twice with respect to the same period.	A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
1090	Bell, Kevin Placer County Public Works	Jurisdictions must conduct community outreach on locations being considered. This is excessive, as there are existing CEQA and CalRecycle solid waste facility permitting processes that require public notification, including workshops, and input on new projects. This requirement should be deleted.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
1091	Bell, Kevin Placer County Public Works	Facilities are difficult to site and can take years to get through the permitting process. CalRecycle must take actions to streamline permitting of new and expanded composting/organics facilities in order for jurisdictions to construct or expand facilities in time to meet regulatory timelines.	CalRecycle has noted the comment. This is not within the scope of the rulemaking. However, EA's should consult with their CalRecycle Permitting Point of Contact for any resources required for permit actions.
1092	Bell, Kevin Placer County Public Works	We recommend enforcement on jurisdictions be postponed if compliance cannot be achieved due to lack of capacity as a result of permitting challenges or if a facility refuses to guarantee access.	A change in the regulatory text is not necessary. The regulations are effective in 2022, allowing for ample time for planning for lack of capacity or infrastructure deficiencies. Currently, it is 2020 and jurisdictions have until 2022 to address any capacity deficiencies and if necessary, they can be placed on a Correction Action Plan that allows for an extended timeframe to come into

Comment Number	Received From	Question/Comment	Response(s)
			compliance. The regulations allow up to three years to come in to compliance on a CAP (in total this is effectively equivalent to the request five years).
1093	Bell, Kevin Placer County Public Works	CalRecycle should specifically coordinate with the California Air Pollution Control Officers Association, CalEPA, and other agencies that are aiming to “enhance decision making on organics materials management infrastructure”, which could add further permitting challenges to organics facilities, hindering the State’s and jurisdictions’ ability to meet SB 1383 requirements.	A change to the regulatory text is not necessary because the comment is outside the scope of the regulations. However, CalRecycle notes that it has already been working with the California Air Pollution Control Officers Association, CalEPA, and others on this issue.
1094	Bell, Kevin Placer County Public Works	18992.1(c)(4). As mentioned, the definition and use of the term “community composting” is confusing and should be clarified. If a community composting site is not a permitted composting operation, it is unreasonable to require jurisdictions to be aware of them and consult with them on capacity planning.	Community composting is a method for reducing landfill disposal of organic waste and CalRecycle determined that known community composting sites may be a useful element of finding local capacity that should be evaluated as an element of capacity planning.
1095	Bell, Kevin Placer County Public Works	We recognize that market development is a crucial component in meeting organics diversion goals. However, we do not believe that these regulations should be the vehicle to address this issue as there are no provisions for SB 1383 granting such an authority to CalRecycle, and respectfully request that the requirement for local jurisdictions to procure specified amounts of recovered organic waste products be eliminated from the proposed regulations.	<p>SB 1383 provides a broad grant of regulatory authority to the Department in Public Resources Code Section 42652.5, “The department, 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.” That section also provides that the Department may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, the Department also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where the Department successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
1096	Bell, Kevin Placer County Public Works	<p>However, should CalRecycle pursue this requirement, we specifically oppose assigning a specified procurement amount. The target does not consider the regional availability of these products or jurisdiction-specific needs. It is unreasonable to expect a jurisdiction to purchase more than their actual demand. We suggest instead requiring jurisdictions adopt green procurement policies that require a certain percentage of a jurisdiction’s purchases be recycled products, rather than a specified amount, similar to the requirements of Public Contract Code 12203.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility to choose product that fit local needs.</p> <p>Regarding the proposal to base the procurement target methodology on “actual need” CalRecycle disagrees. The comments submitted on this lack specific language for quantifying such an approach. Even if the commenter recommended a quantifiable way to determine “actual need”, California has over 400 diverse jurisdictions and it would be overly burdensome to account for each jurisdiction’s “actual need” and to develop a procurement target and enforcement policy for each one.</p> <p>Regarding revising the procurement approach to rely solely on jurisdictions’ voluntary purchases of recycled content products, CalRecycle disagrees. This approach would be insufficient to drive demand for recovered organic waste products on the scale necessary to help meet the ambitious targets required by SB 1383.</p> <p>However, CalRecycle also recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction’s need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. It can do this by</p>

Comment Number	Received From	Question/Comment	Response(s)
			showing that the amount of fuel, electricity, and gas for heating applications procured in the previous year is lower than the procurement target.
1097	Bell, Kevin Placer County Public Works	As currently written, a jurisdiction would be required to purchase material from itself to meet the requirements of this Article. Methods of compliance should instead include other landfill diversion activities, such as reuse. This would increase incentive for the jurisdictions to produce such products from their own waste stream and make use of those products. E.g., it is very common for parks and public works operations to grasscycle and to stockpile and reuse mulch generated from tree trimming operations, which achieves the same landfill diversion objectives.	The proposed regulatory text does not limit jurisdictions to the procurement of recovered organic waste products from “their” organics to satisfy the procurement requirements, nor do the products need to be consumed within the jurisdiction. The commenter states, “We believe a better approach would be to require a jurisdiction to use a certain amount of these types of materials.” This is essentially exactly what the procurement requirements do. A jurisdiction may procure from any entity provided the end products meet the Section 18982(60) definition of “recovered organic waste products”, and a jurisdiction may use the end products in a way that best fits local needs.
1098	Bell, Kevin Placer County Public Works	Mulch and other organic recycled products should also be allowable purchases.	Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
1099	Bell, Kevin Placer County Public Works	Any procurement requirements need to also be applied to “non-local entities” (such as state agencies, public universities, etc.) and “local education agencies” (such as school districts, community colleges, etc.) as defined.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying</p>

Comment Number	Received From	Question/Comment	Response(s)
			procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.
1100	Bell, Kevin Placer County Public Works	More flexibility should be included for the purchase of other products made from recovered organic waste, including, but not limited to, other forms of renewable natural gas, electricity, and other recycled organic waste products as may be approved by CalRecycle. CalRecycle's position should be focused on promoting, rather than limiting, the use of organic waste products, including those that may be produced by non-combustion conversion technologies.	<p>"The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards."</p>
1101	Bell, Kevin Placer County Public Works	CalRecycle should also focus more on developing markets where there is more potential, e.g. state agencies (e.g. CalTrans revegetation and slope stabilization), agriculture, horticulture, landscapers, turf producers, golf courses, nurseries, wetland creation, etc. As one example, the Healthy Soils Initiative, which includes targets for application of compost to sequester carbon and improve soil health, should be expanded or, at minimum, fully utilized. Since inception, the Legislature has allocated less than half of its annual funding received from the Greenhouse Gas Reduction Fund.	CalRecycle cannot impose procurement mandates on other sectors without the necessary statutory authority, which SB 1383 lacks. Regarding healthy soils, CalRecycle participated in development and implementation of the Healthy Soils Initiative (HSI) and assisted the California Department of Food and Agriculture (CDFA) in developing reimbursable compost application rates, estimating nitrate loads following compost application, developing the HSI grant application, and including compost application as an eligible soil management practice. While CalRecycle appreciates the ability to provide input, the HSI is ultimately under the regulatory authority of CDFA, not CalRecycle.

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in,</p>
1102	Bell, Kevin Placer County Public Works	The record keeping and enforcement requirements are extremely burdensome and would require significant resources and cost. We respectfully request that all reporting be incorporated into the EAR already required for each jurisdiction. This would be more efficient than creating an entirely new reporting requirement and process just for the purposes of these regulations.	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.
1103	Bell, Kevin Placer County Public Works	Additionally, we are concerned with the provision of Section 18995.1(c) which, for the purpose of measuring compliance, mandates jurisdictions to generate a written report for each inspection, route review, and the name or account name of each person or entity. Some information from haulers to a jurisdiction is confidential and cannot be released to CalRecycle. We recommend jurisdictions be required to only provide CalRecycle with a general description of the route location, a general description of account reviewed, and a list of accounts determined by the jurisdiction to be subject to enforcement actions.	CalRecycle changed the requirement for a “written report” to a “written record” in 18995.1(c) to make clear that information gathered during inspections such as route reviews and compliance reviews is not required to be disclosed in a public report. These are written records that are to be maintained in the files of the local jurisdiction. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction.
1104	Bell, Kevin Placer County Public Works	The “Corrective Action Plans” allow extended timelines and milestones for achieving compliance, if the jurisdiction has demonstrated that it has made a “substantial effort” to comply. Substantial effort is then defined to mean that a jurisdiction has taken all practicable action to comply; however, the regulation clarifies that substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply with the Chapter, including failure to provide staff resources or sufficient funding to assure compliance. We believe this is too severe. There are many factors a decision-making body must consider when establishing programs that are reasonable and economically feasible.	A change to the regulatory text is not necessary. This exclusion of the circumstance where a decision-making body of a jurisdiction has not taken action as “substantial effort” was to prevent delayed enforcement action due to a jurisdiction failing to take adequate steps to comply with the Chapter. The success of the Short-lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. This strict timeframe does not allow for a multi-year and multi-step process for achieving compliance or a “good faith effort” as with AB 939. Enforcement by the Department allows a jurisdiction extended timeframes to come into compliance through extensions and the Correction Action Plan (CAP). Absolving the jurisdiction of their responsibility to comply with the regulations due to the failure of a decision-making body would render the state incapable of achieving the SB 1383 targets. The jurisdiction is ultimately responsible for their compliance with the Chapter and shall be subject to penalties for noncompliance and the decision-making body will need consider the possibility of penalties if it fails to take the necessary steps to comply. By adopting the SB 1383 regulations as early as

Comment Number	Received From	Question/Comment	Response(s)
			<p>possible, impacted stakeholders will be provided the maximum amount of time to prepare and budget for implementation and compliance.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a CAP. This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
1105	Bell, Kevin Placer County Public Works	The requirement to provide access to records within one business day is unreasonable. There are a host of legitimate reasons that may prevent this standard from being met. We ask that this requirement be revised to be consistent with the Public Records Act, which provides 10 days.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
1106	Bell, Kevin Placer County Public Works	In 18996.6, if CalRecycle finds that a state agency or state facility is violating Article 5 or Article 10 of this chapter, then the Department may simply "take progressive enforcement actions". The regulation places a disproportionate burden on counties and cities compared to state agencies. The regulation should include similar mandatory enforcement on state agencies as well.	A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.
1107	Bell, Kevin Placer County Public Works	Pursuant to § 42653(a) of the PRC, CalRecycle and California Air Resources Board (not local jurisdictions) are responsible for identifying the barriers to organic waste recycling, the status of new organics recycling infrastructure development, the commitment of state funding to support infrastructure expansion, the progress in reducing regulatory barriers to the siting of organics recycling facilities, the timing and effectiveness of policies that will facilitate the permitting of organics recycling infrastructure, and the status of markets for the products generated by organics recycling facilities. Therefore, we would respectfully request that the regulatory language include allowances for jurisdictions and other entities that demonstrate a substantial effort to comply with the regulations but are unable to do so due to such factors outside of their control.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
1108	Bell, Kevin	We are disappointed that the proposed regulations fail to incorporate provisions for a jurisdiction demonstrating a "good faith effort" to comply with SB 1383 organic	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB

Comment Number	Received From	Question/Comment	Response(s)
	Placer County Public Works	waste landfill reduction mandates. Specifically, SB 1383 {Public Resources Code § 42652.5(a)(4)} states, “The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825, the amount of organic waste disposed compared to the 2014 level, per capita disposal rates, the review required by Section 42653, and other relevant information provided by a jurisdiction” (emphasis added). PRC Section 41825 establishes the process to be used by CalRecycle in evaluating a jurisdiction compliance with State mandated recycling goals. The process requires CalRecycle to consider “good faith efforts” by the jurisdiction in making its determination of the jurisdiction progress (emphasis added). Furthermore, as stated in PRC Section 41850(b), CalRecycle is required to make a determination as to whether a jurisdiction has made a good faith effort to comply with the recycling mandates before imposition of any administrative penalties on the jurisdiction. We therefore request the proposed regulation be expanded to include provision for CalRecycle to consider the “good faith effort” of a jurisdiction to comply with organic waste landfill reduction mandates.	1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
1109	Bell, Kevin Placer County Public Works	Alternatively, we request that CalRecycle revise the definitions of “substantial effort”, “extenuating circumstances”, and “critical milestones” as define Section 18996.2(a) to be consistent with provisions of PRC Sections 41821, 41824, and 41850.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction.
1110	Bell, Kevin Placer County Public Works	Additionally, we are greatly concerned with the proposed definition of “critical milestones” as written in Section 18996.2(a)(2)(D), which reads, “critical milestones” means all actions necessary for a jurisdiction to comply, including, but not limited to, receiving all approval by decision-making bodies, permit application submittals and obtaining approvals, and tasks associated with local contract approvals”. This is an impossible task – no local government or any state agency can guarantee that they can receive “all decision-making bodies” (e.g. State) approval – and needs to be deleted.	A change to the regulatory text is not necessary. This exclusion of the circumstance where a decision-making body of a jurisdiction has not taken action as “substantial effort” was to prevent delayed enforcement action due to a jurisdiction failing to take adequate steps to comply with the Chapter. The success of the Short-lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. This strict timeframe does not allow for a multi-year and multi-step process for achieving compliance or a “good faith effort” as with AB 939. Enforcement by the Department allows a jurisdiction extended timeframes to come into compliance through extensions and the Correction Action Plan (CAP). Absolving the jurisdiction of their responsibility to comply with the regulations due to the failure of a decision-making body would render the state incapable of achieving the SB 1383 targets. The jurisdiction is ultimately responsible for their compliance with the Chapter and shall be subject to penalties for noncompliance and the decision-making body will need consider the possibility of penalties if it fails to take the necessary steps to comply. By adopting the SB 1383 regulations as early as

Comment Number	Received From	Question/Comment	Response(s)
			<p>possible, impacted stakeholders will be provided the maximum amount of time to prepare and budget for implementation and compliance.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a CAP. This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p> <p>The definition of "critical milestones" was deleted from the regulations.</p>
1111	Bell, Kevin Placer County Public Works	<p>We struggle to identify the statutory authority for CalRecycle to require local jurisdictions to impose penalties on generators for noncompliance. We believe Section 42652.5(a)(1) however, is clear that the department "may authorize" jurisdictions to impose penalties, but does not provide authority to the department to mandate that jurisdictions impose penalties, and certainly does not provide authority for such prescriptive regulations. This portion of the statute provides many areas of authority to the department, and it is incredibly precise in its phrasing, using "may require", "may authorize", "shall include", and "may include", among others, to describe the precise authority being granted to the department for specific actions. Again, we respectfully point out that the statute seems to give authority to CalRecycle to "authorize" penalties, but not mandate them.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .'. The [administrative agency] is authorized to 'fill up the details' of the statutory scheme."</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
1112	Bell, Kevin Placer County Public Works	However, if pursued by CalRecycle, the penalty system as proposed is too extensive and premature and should be considered in a separate set of regulations at a later date. The requirements are complicated and will be difficult to implement and administer. Jurisdictions have until 2022 to implement the programs, so there is ample time to consider appropriate levels of penalties after implementation of these regulations. We recommend removing all enforcement until the feasibility of program and infrastructure implementation can be evaluated.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations “may include penalties to be imposed by the Department.” This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
1113	Bell, Kevin Placer County Public Works	As in other sections of this regulation, this Article places a disproportionate financial burden on counties and cities. As an example, there are 66 fineable offenses CalRecycle can impose on generators and jurisdictions, but no financial penalty is proposed to be placed on State agencies that fail to comply. It will be very difficult for jurisdictions to justify such a prescriptive set of penalties onto our residents and businesses when the State entities, federal agencies, and schools, who are large	This comment referred to a penalty table that was deleted in later versions of the regulatory language. Authority to impose penalties on state agencies is unclear in the SB 1383 statute.

Comment Number	Received From	Question/Comment	Response(s)
		contributors to the organic waste stream, only get put on a “non-compliance list” for failure to comply.	
1114	Bell, Kevin Placer County Public Works	There must be some consideration in the regulation for the National Sword impacts, particularly in regard to its impact on paper markets. The market changes have required jurisdictions to amend their programs and outreach and facilities to change their processing and marketing. Jurisdictions should not be penalized for market conditions that are out of their control.	The commenter is expressing an opinion regarding the overall scope of the rulemaking and how National Sword may impact implementation. The comment is not suggesting particular changes to the regulatory language and it is unclear what the impact is on paper markets and how the regulations should address that. Comment noted.
1115	Bell, Kevin Placer County Public Works	There are already existing methods in place for CalRecycle to enforce diversion program implementation. Adding another method and level of oversight and enforcement is unnecessary and will cost the State (in terms of staffing and overall effort) costs which will ultimately be passed down to jurisdictions and local ratepayers. We recommend removing this unnecessary requirement.	A change to regulatory text is not necessary. The California legislature has recognized the need for the Department to have oversight and enforcement authority over jurisdictions who have a role in carrying out organic recycling requirements to meet the state’s mandates. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence.
1116	Bell, Kevin Placer County Public Works	CalRecycle has indicated they have included flexibility in the enforcement requirements. Nearly 20 pages of enforcement and oversight procedures and mandatory fines are not flexible; it is State oversight at an unreasonable and unprecedented level.	A change to the regulatory text is not necessary. The success of the Short-lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. This strict timeframe does not allow for a multi-year and multi-step process for achieving compliance or a “good faith effort” as with AB 939. The legislature included specific language that the regulations may include policies and requirements that impose penalties on regulated entities and require jurisdictions to impose requirements on regulated entities. Enforcement by the Department allows a jurisdiction extended timeframes to come into compliance through extensions and the Correction Action Plan (CAP). The jurisdictions may adopt ordinances and mechanisms that must at least meet the minimum standard of the regulations. These ordinances may give the jurisdiction more flexibility to be more stringent should local regulations have additional requirements. The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a CAP. This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
1117	Bell, Kevin Placer County Public Works	Upon receipt of an accusation, a jurisdiction has only 15 days to file a request for hearing, or will automatically waive its rights to a hearing. Jurisdictions need more time to respond. It not only takes time to receive and route mail in an agency, it will take time to determine which department is responsible, evaluate the issue, consult	Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.

Comment Number	Received From	Question/Comment	Response(s)
		with legal counsel, and prepare a response. The regulation should allow at least 90 days for a jurisdiction to respond.	<p>Regarding soil amendments and adding an option for approval of “future technological and product developments”, CalRecycle disagrees due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of “soil amendments” and “future technological and product development” raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. CalRecycle has also added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. If soil amendments meet that criteria, they may be considered compost.</p> <p>Regarding posting a list of approved products, once the regulations are finalized CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products.</p>
1118	Bell, Kevin Placer County Public Works	This Article contains several requirements for sampling and load checking on a daily basis. We appreciate a goal of better understanding the waste streams and residue levels after processing. However, the typical waste stream at a facility does not vary drastically over short periods of time and it stands to reason that such waste composition studies and load checks could be conducted much less frequently and still provide representative data. The WPWMA is currently utilizing a waste composition study consultant, the cost of which is \$5,000 per day to conduct 48 physical and visual samples/measurements. The WPWMA estimates the new requirements could equal or exceed these costs and provide no better data than potentially larger-scale semi-annual measurement.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
1119	Bell, Kevin Placer County Public Works	We appreciate the revision to include an LEA-approved equivalent alternative to the 36” earthen material requirement. However, it is unclear if CalRecycle has evaluated use of 36” earthen material in reducing methane emissions and provided evidence that this practice is “necessary to limit greenhouse gas emissions from landfills” and “allow for greater landfill gas collection and biogenesis”, as indicated in the Initial Statement of Reasons. In the absence of justification, CalRecycle should maintain the current requirement.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
1120	Bell, Kevin Placer County Public Works	The various daily sampling requirements for each separate organic waste type are excessive. It would require significant space and is not related to the amount of waste accepted. Operators should have flexibility on how to implement sampling for contamination.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine

Comment Number	Received From	Question/Comment	Response(s)
			<p>the level of efficiency of a facility to separate organic material for recycling. The operator will now be taking composite samples for 10 consecutive days per reporting period, which is on a quarterly basis. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
1121	Bell, Kevin Placer County Public Works	In addition, the regulation should clarify that facilities located in jurisdictions that have waivers should not be required to conduct sampling.	A change to the regulatory text is not necessary. Waivers would provide certain jurisdictions a waiver from organic waste collection service, education, and enforcement if the jurisdictions meet the requirements of the waiver. A jurisdiction that is granted a waiver would not be collecting the waste and therefore the waste would not be sent to the facility. In addition, a facility or operation located in a jurisdiction that was granted a waiver is not exempt from complying with measurement requirements.
1122	Bell, Kevin Placer County Public Works	For processing facilities to construct, expand, and process additional types and volumes of organic wastes, CalRecycle needs to ensure that facilities are protected from odor complaints, increasing regulations, and contamination standards.	CalRecycle has noted the comment. This is not within the scope of this rulemaking.
1123	Bell, Kevin Placer County Public Works	Section 21695 Landfill operators are required to submit a Status Impact Report to CalRecycle within 180 days followed by CalRecycle review, findings, reports to the Enforcement Agency, etc. It would be much more reasonable for the regulation to simply require that an operator submit a Joint Technical Document amendment, if needed, within the timeframes required in existing regulation. The additional detail is not necessary.	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations.</p> <p>A Joint Technical Document (JTD) is an operational document that is maintained to reflect the current day to day operations at the landfill. Whereas, the SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order to properly plan for changes or modifications to the landfill. The results of the SIR will determine if an amendment to the JTD is needed. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p> <p>In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills. If there will be no changes to a particular item, then a statement to that effect would be adequate.</p>

Comment Number	Received From	Question/Comment	Response(s)
1124	Bell, Kevin Placer County Public Works	We appreciate the addition of the “Mixed Organic Waste Stream” in an attempt to provide clarification as to what materials are collected in the container systems and to be diverted by a High Diversion Organic Waste Processing Facility. However, it would be clearer still if this definition was included in Chapter 12, Article 1 and specified the materials to be collected in the stream	A change to the regulatory text is not necessary. The term “mixed waste organic collection stream” is used in 14 CCR Chapter 3 - Transfer/processing operations and facilities. This definition is applicable to any activity that falls within this Chapter. Furthermore, the term is defined by how the material is collected. Making the definition more descriptive by listing all the material that can be collected in the blue or gray containers is unnecessary because it will depend on the type of organic waste collection service in that jurisdiction as defined in Sections 18984.1, 18984.2, and 18984.3.
1125	Bell, Kevin Placer County Public Works	We recommend a descriptive definition, e.g. “Mixed Organic Waste Stream means organic wastes collected in a blue container or a gray container...and that are not prohibited container contaminants, as defined, to be transported to a High Diversion organic waste processing facility and includes food, green material, landscape and pruning waste, lumber, wood, paper products, printing and writing paper.”	A change to the regulatory text is not necessary. The term is defined by how the material is collected. Making the definition more descriptive by listing all the material that can be collected in the blue or gray containers is unnecessary because it will depend on the type of organic waste collection service in that jurisdiction as defined in Sections 18984.1, 18984.2, and 18984.3.
1126	Bell, Kevin Placer County Public Works	We recommend this definition not include textiles and carpets, manure, biosolids, digestate, and sludge for reasons noted in other comments.	The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
3644	Berkman, K., City of El Segundo	Section 18984.7 -This section requires that containers at the end of their useful life are replaced with SB 1383 color-compliant containers. This may lead to conflicts with current color schemes, or at a minimum may lead to containers of inconsistent colors throughout a jurisdiction. Inconsistent coloring dispersed throughout jurisdiction makes education and outreach a challenge as customers with different colored containers will require different messaging. Furthermore, this approach does not consider current container inventories that have already been procured to replace containers at the end of their useful life. The City recommends that CalRecycle eliminate the need to replace containers at the end of their useful life with SB 1383 co/or-compliant containers, and instead mandate that all containers comply with the color requirements described above by 2032. This will allow jurisdictions to utilize current container inventories and allow for a uniform replacement of new containers and messaging throughout the jurisdiction.	Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products. Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations

Comment Number	Received From	Question/Comment	Response(s)
			allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life. Jurisdictions may use inventory purchased prior to 2022.
3652	Berkman, K., City of El Segundo	<p>Section 18992.1(c)(2)(A) - This section requires that counties, in coordination with their cities, estimate the amount of organics disposed, the amount of verifiably available organics recovery capacity, and the estimated additional capacity needed to comply with state goals, through consultation with the Enforcement Agency, the local task force, haulers, facility operators and owners, and community composting facilities. The City believes that the capacity planning process tasked to counties and cities described in this section is critical to ensuring that California "right sizes" its investment in organics infrastructure and can rely upon the information generated by this process for future planning. The methodology proposed is generally reasonable and the flexibility to use other reasonable methods of estimation, where appropriate, will allow jurisdictions to approach this exercise in different ways based on local needs and conditions. That said, the completeness and accuracy of the data collection is entirely dependent upon the cooperation of and provision of data by the facilities in question. All too often, processing facilities provide incomplete information in response to capacity studies or simply decline to participate at all. If CalRecycle intends to require that public agencies conduct the process described herein, it seems reasonable to require participation and provision of accurate information by the facility operators. While this subsection requires that entities contacted respond to the jurisdictions request, there are no mandatory timeframes or prescribed penalties for their inability or unwillingness to comply.</p> <p>The City recommends establishing a timeframe in which entities must reply to jurisdictions, as well as an enforcement mechanism (perhaps an addition to Article 16). Ideally, CalRecycle would handle the enforcement of this since many jurisdictions may be seeking information and capacity outside of their jurisdiction, which impacts their ability to legally enforce any fines levied.</p>	Thank you for the comment. CalRecycle has revised Section 18992.1 by adding a new subsection (Section 18992.1(c)(2)(A) to add a 60-day requirement for entities to provide the required information to jurisdictions.
3645	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>Article 1 - Definitions</p> <p>Section 18982(a){51} - This section includes "building insulation and panels" in the definition of paper products. Unlike the other materials included in the definition of paper products, building insulation and panels are most frequently not made of paper. In addition, some insulation has a single paper backing to fiberglass layers which is not practically separable from the fiberglass. Since the regulations of "organic waste" includes paper products, the inclusion of building insulation may lead to confusion and potential contamination.</p> <p>The City recommends that "building insulation and panels" be removed from this definition. Alternatively, the definition could be enhanced to specify which types of insulation and panels are included (e.g. compostable insulation).</p>	CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.

Comment Number	Received From	Question/Comment	Response(s)
3646	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>Article 3 - Mandatory Organic Waste Collection</p> <p>Section 18984.l(a){S}{A} - This section states that carpets, non-compostable paper and hazardous wood waste are prohibited from being placed in the green container. This subset is limited in scope and should be expanded. Currently the California Department of Food and Agriculture (COCA) restricts movement of certain organics within quarantine zones and this material should not be included in the green containers. This is addressed elsewhere in the proposed regulation text for non-local entities and at the facility level when measuring organic recovery rates, but not at the point of collection.</p> <p>The City recommends that CalRecycle amend the list of prohibited materials to include "material subject to a quarantine on movement issued by a county agricultural commissioner." Alternatively, the definition of organic waste in Section 18982(0)(46) could be amended to state "material subject to a quarantine on movement issued by a county agricultural commissioner is considered incompatible materials rather than organic waste."</p>	Thank you for the comment. CalRecycle added language in Section 18984.13 to address quarantined waste.
3648	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>Section 18986.l(a){l}(A) - This section states that textiles, carpets, plastic coated paper, and human or pet waste may not be collected in the blue container for non-local entities. This requirement appears to be incongruent with the requirements placed on local entities. The City recommends that CalRecycle amend the definition to align with the requirements placed on jurisdictions in Sections 18984.1 and 18984.2.</p>	Thank you for the comment. CalRecycle amended the applicable sections for consistency.
3651	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>Section 18990.1.l{b}(2) - The provisions of this section appear to prohibit a local agency from reserving available capacity at a facility for generators in that jurisdiction. If a local agency provides the funding and/or assurance of material flow that enables the development of organics processing infrastructure, that agency should, reasonably, have the ability to reserve that infrastructure for the benefit of their constituents and/or ratepayers. Additionally, if a local agency acts as a host for an organics processing facility and accepts the real and perceived negative impacts of such facilities on the community, it seems reasonable that the agency should be entitled to establish "host mitigation fees" on materials originating outside that jurisdiction. These sorts of fees are common in the solid waste industry in California and may tend to reward communities that are willing and able to overcome "NIMBY" concerns.</p> <p>The City recommends eliminating or clarifying the provisions of this subsection. The City would particularly like to see the ability to reserve capacity for facilities partially or fully funded by the jurisdiction.</p>	Read together, section 18990.1 (b) (3) prohibits a local ordinance that restricts flow, and section 18990.1 (c) (4) allows for contractual relationships, which does not restrict the flow of materials. Furthermore, section 18990.1 (c) (1) allows facilities to reject organic waste from outside jurisdictions that does not meet quality standards established by a facility or operation, and section 18990.1 (c) (2) allows a jurisdiction to arrange for reserved capacity at a facility for organic waste from the jurisdiction. A change to the regulatory text is not necessary.
3654	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>Section 18982(a)(65) - This section defines a route review as visual inspection of containers along a hauler route for the purpose of determining container contamination. Without specifying a minimum quantity of inspections per route, the regulations may result in a "race to the bottom" where haulers or jurisdictions are inspecting minimal containers per route. Another concern is an inconsistent</p>	Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure

Comment Number	Received From	Question/Comment	Response(s)
		<p>interpretation or application of the minimum standards by Local Enforcement Agents.</p> <p>The City recommends that CalRecycle amend this definition or the corresponding enforcement section {18984.5} to specify a minimum percentage of containers or customers along the route to be inspected. This approach will allow for a consistent application of the regulations across jurisdictions and ensure that the intent of this section is realized.</p>	<p>overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction.</p>
3655	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>General - This article will require a significant expenditure by jurisdictions throughout California to staff the enforcement efforts, including but not limited to: route reviews, compliance reviews, contamination monitoring, follow-up site visits, and the issuing of fines. Some agencies will choose to hire staff or incorporate these responsibilities into the work performed by existing code enforcement officers and/or health inspectors. In some agencies, there may not be a sufficient workload created by these requirements to justify a full time position. In yet other agencies, there may be political objections to funding staffing for this type of enforcement when other critical public health and safety matters are under-enforced. During the enforcement workshop, Cal Recycle suggested the potential for CalRecycle to perform the enforcement on behalf of agencies, similar to how agencies can arrange for CalRecycle to be the Local Enforcement Agency for regulating solid waste facilities. The City recommends that Ca/Recycle provide an option for jurisdictions to contract with CalRecycle to perform the inspection and enforcement procedures.</p>	<p>A change to the regulatory text is not necessary. CalRecycle will not be contracting with jurisdictions to perform inspection and enforcement actions. There are insufficient resources at the state level to contract out for jurisdictions.</p>
3657	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>Section 18997.2(d) -This section states that the penalty amount for each violation (subject to range limitations) will be determined through a qualitative process. It is likely that the current process will result in an uneven application of fines across jurisdictions. Furthermore, the consideration of "the ability for a violator to pay" under Section 18997.2(d) seems to bias the amount of fines based on a jurisdictions financial position. The City recommends that this section be amended to include a quantifiable formula for determination of fines that eliminates subjectivity and the potential for inconsistent application. For example, the severity of a fine within the currently prescribed range could be tied to the population of a jurisdiction. Alternatively, the base tables in Section 18997.2(c) could be changed to singular figures, as opposed to ranges, eliminating the current subjectivity. The fine structure is already progressive for subsequent failures to comply and therefore negates the need to assess the penalties based on the "willfulness of a jurisdiction's misconduct."</p>	<p>A change to the regulatory text is not necessary. Section 18997.3(d) has been changed to 18997.3(c) due to deletion of the penalty tables and the addition of the new penalty structure outlined in section 18997.3(b). The factors listed in Section 18997.3(c) are commonly used when determining a penalty amount. The penalty range may be used to consider aspects such as but limited to, the population of a jurisdiction. CalRecycle will not be including a quantifiable penalty formula in the regulations.</p>
3658	Berkman, K., City of El Segundo, Olmos, T., City of Brea	<p>Section 18997 .S(d) -This section states that upon receipt of an accusation of violation, a jurisdiction has 15 days to file a request for a hearing. Additionally, this section prescribes an expedited time frame for imposition of penalties, leaving jurisdictions little time to investigate potential violations and respond thoughtfully. Given that responsibilities may be designated to haulers or other entities, it is even more unlikely that a thoughtful response could be drafted within the mandated timeframes.</p>	<p>The 15 day window for requesting a hearing is modeled on the timeline for regulated solid waste facilities in Public Resources Code Section 44310. Provisions were included in Section 18994.1 for jurisdictions to report the primary contact person in the jurisdiction and the agent for service of enforcement process, if different. The purpose of these provisions was to ensure that enforcement process is routed to the proper individual within a jurisdiction. It is incumbent upon that individual to ensure the process material is routed efficiently and appropriately. In addition, the commencement of a penalty proceeding is only allowed to occur following a notice of</p>

Comment Number	Received From	Question/Comment	Response(s)
		The City recommends that jurisdictions receive a minimum of 45 days to investigate the accusation and request a hearing.	violation process in which the jurisdiction will be on notice with an opportunity to correct. By the time a penalty accusation is served, a jurisdiction should be aware of a violation and the issues involved and the informational bar for requesting a hearing is set low.
3659	Berkman, K., City of El Segundo, Olmos, T., City of Brea	Section 18997.5(e) - This section states that if a party waives their right to a hearing, there is a potential to enter a settlement agreement. It is unclear how the settlement process could or should be conducted. The City recommends that this section be amended to provide guidance and parameters for settlements, or at a minimum contains a reference to the appropriate document that does provide this information.	A change in the regulatory text is not necessary. It is unclear on what parameters the commenter is suggesting, but in general, adding such parameters to the language may unduly restrict the discretion of the parties in reaching adequate settlement.
6210	Bernal, M., City of Santa Cruz	Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic material processing. Many cities have expressed concern over an inability to comply with organic diversion requirements due to a lack of organic processing infrastructure. There is an uneven distribution of organic processing infrastructure, such as bio-digesters, across the State. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6211	Bernal, M., City of Santa Cruz	Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic material diversion programs. The City and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in

Comment Number	Received From	Question/Comment	Response(s)
			a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6212	Bernal, M., City of Santa Cruz	Enforcement: These regulations allow for Corrective Action Plans and establish extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction, and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.	Comment noted, the comment does not recommend a regulatory change.
6213	Bernal, M., City of Santa Cruz	Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from noncompliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. Just the sheer volume of proscribed penalties, currently at 81, begs for additional scrutiny. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
6214	Bernal, M., City of Santa Cruz	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic material products by targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "substantial additional costs". CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
6215	Bernal, M., City of Santa Cruz	The City further notes that the additional costs that will result from complying with the procurement regulations represent an unfunded State mandate under Cal. Const. Art. XIII B, Sec. 6(a), as the regulations would impose a new program on cities	CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.

Comment Number	Received From	Question/Comment	Response(s)
		<p>and neither the draft regulations nor the Initial Statement of Reasons identifies a State funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, Sec. 1 (e) (Prop. 26), as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, Sec. 6 (Prop. 218.). This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, the City requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
6024	Berteau, C., Citizen - Oakland	SB 1383 would make sending organic material across property lines illegal because cities have exclusive contracts with corporate haulers.	No change to the regulatory text is necessary. The commenter has not requested a change to the text and it is unknown what is meant by sending organic material across property lines or what that has to do with corporate hauler contract. Nothing in the regulations prohibits sending organic material across property lines.
6025	Berteau, C., Citizen - Oakland	Why cant we have small local composting facilities who carefully nurture rich microbial compost that will truly benefit the soil? Please trust the people to create really good compost on a smaller scale. Protect our right to carry organics from our garden to a local composting facility or to have them pick it up.	This comment proposes to add the definitions of ‘Community Benefit Composting’ and ‘Micro-composting’ to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards. No change to the regulatory text is necessary

Comment Number	Received From	Question/Comment	Response(s)
			to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste. Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
4	Bigham, B,	Section 18982 (a)(46) "Organic waste" means solid wastes containing material originated from living organisms and their metabolic products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, petroleum contaminated soil and sorbents , lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.	A change to the regulatory text is not necessary. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). Section 18982(a)(46) defines what material is considered organic waste for the purpose of these requirements. Organic waste includes solid waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscaping and pruning waste, organic textiles and carpet, lumber, wood, paper produce, print and writing paper, manure, biosolids, digestate and sludge.
5	Bigham, B,	Section 20700.5(a) Compacted earthen material free of VOC contamination at least 36 inches in depth shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 30 months to control methane emissions. (1) The EA may approve, with concurrence by the Department, an alternative long-term intermediate cover if the operator demonstrates that the alternative is equivalent to 36 inches of earthen material and free of VOC-contamination .	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
6	Bigham, B,	I recommend that the regulations incorporate a state-wide ban on the acceptance by landfills of any contaminated soil containing VOC levels of 50 ppm or greater. I further recommend that a lower state-wide VOC level less than 50 ppm be considered to further meet the SLCP goals. This lower limit should be consistent with the VOC restrictions of neighboring Air Districts to eliminate the unseemly transportation of VOC emissions to jurisdictions with lax local restrictions on VOC emissions.	CalRecycle has noted the comment. Banning soil with VOC greater than 50 ppm is under the Air Districts authority and not the purpose of SB 1383. This is not within the scope of this rulemaking.
7	Bigham, B,	There is a practical advantage to CalRecycle in the incorporation of this proposal – it can be implemented with minimal disruption to the landfills. The discontinuation of the use of VOCcontaminated soil as cover material could be accomplished quickly since the materials and technologies (covers, foams, clean soil, auto shredder waste) are already in place to do this. This would allow the Department to demonstrate to the California State Legislature tangible progress towards implementation of SB 1383. Further, because of the large volumes of contaminated soil currently going to landfills, this gives CalRecycle a major component in the 50% reduction requirement in the disposal of organic waste to landfills by 2020, as required by the statute. This is also consistent with Section 39730.6 (2) (b) restricting regulation of methane emissions at landfills.	CalRecycle has noted the comment. Banning soil with VOC greater than 50 ppm is under the Air Districts authority and not the purpose of SB 1383. This is not within the scope of this rulemaking.

Comment Number	Received From	Question/Comment	Response(s)
3017	Bilderian, S., City of Twentynine Palms	<p>Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as biodigesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides live years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3018	Bilderian, S., City of Twentynine Palms	<p>Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Twentynine Palms and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.</p>	<p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3019	Bilderian, S., City of Twentynine Palms	<p>Enforcement: These regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.</p>	<p>Thank you for the comment . This comment supports current regulation language.</p>
3020	Bilderian, S., City of Twentynine Palms	<p>Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be</p>	<p>A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations the</p>

Comment Number	Received From	Question/Comment	Response(s)
		implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
3021	Bilderian, S., City of Twentynine Palms	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding. The City of Twentynine Palms further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII 0, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Twentynine Palms requests that the procurement regulations be addressed in a separate regulatory proceeding.	CalRecycle has determined that the procurement requirements are necessary to achieve organic waste diversion targets by ensuring an end-use for processed organic waste. In addition, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383. According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate. Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.
3005	Blanco, E., Fairfield Public Works Department	Edible Food - Is this referring to donations of uneaten food from events or restaurants to shelters or group homes, will there be a difference in reporting.	In Article 1 of the regulations edible food is defined as food intended for human consumption. The definition also includes language that specifies that the purposes of these regulations, edible food is not solid waste if it is recovered and not discarded. In addition, 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. It is unclear what the commenter was referring to regarding a difference in reporting. If the commenter was asking if there will be a difference in reporting for shelters and group homes the answer would be it depends. Only food recovery organizations and food recovery services that contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3 (b) are required to report the total pounds collected from commercial edible food generators in the previous calendar year to the jurisdiction.
3006	Blanco, E., Fairfield Public Works Department	Please food inspection for health and safety are managed by the County LEA not per city as noted. Agencies that accept food or donate food (churches or businesses, shelters etc.) are already inspected and regulated by the County Health. They also have health inspectors. The County provide mental health and homeless shelters, food to needy schools or WICK - programs where food maybe donated, too.	A change to the regulatory text was not necessary because the commenter did not make any recommendations to revise the regulatory text, and Section 18981.2 of the regulations already addresses the concern raised in this comment. Section 18981.2 of the regulations specifies that a jurisdiction may designate a public or private entity, which includes local environmental health departments to fulfill its regulatory responsibilities.
3007	Blanco, E., Fairfield Public Works Department	The County's has a countywide list of food vendors - These businesses and agencies operate in multiple cities, so a countywide list managed by the LEA would give the state all the data it needs. Have the county report the amount (lbs.) to each city annually. Some items we can capture such as school food recycling or food that the food bank collects and distributes, but when handling food for transport - this really should be the County's responsibility.	Section 18981.2 of the regulations already addresses the concern raised in this comment. Section 18981.2 of the regulations specifies that a jurisdiction may designate a public or private entity, which includes county environmental health departments to fulfill its regulatory responsibilities.
3012	Blanco, E., Fairfield Public Works Department	I have a procurement question for clarification. Do you know if Renewable Diesel will be considered alternative fuel (not CNG or LNG) Compress natural Gas or Liquified Natural Gas. Our hauler is required to use CNG or LNG in all their vehicles including their sweepers per contract. I can get their information.	Eligible recovered organic waste products are limited to materials that are derived from recycling feedstock at, or derived from, solid waste facilities. This is necessary to ensure that the use of the product actually helps reduce disposal of organic waste. While renewable sources of energy and gas are of course preferable to fossil sources from a climate perspective, there is not necessarily a link between the material produced and reduction of organic waste that is disposed in landfills. For example fuel derived from corn-based ethanol or diesel may be eligible for federal RIN credits and is derived from organic material (typically corn grown in Iowa), but it lacks a demonstrable link to the organic waste reduction targets the draft regulations are designed to achieve. The comment lacks information for a process to create renewable diesel that is demonstrably linked to reductions in disposal of organic waste in California landfills. Acceptable fuels are fuels derived from renewable gas produced from recycling California, landfill-diverted organic waste.

Comment Number	Received From	Question/Comment	Response(s)
1001	Blanco, Ester, City of Fairfield, Public Works Dep	Will Renewable Diesel be considered an alternative fuel (not CNG or LNG) Compress natural Gas or Liquified Natural Gas? Our hauler is required to use CNG or LNG in all their vehicles including their sweepers per contract.	Eligible recovered organic waste products are limited to materials that are derived from recycling feedstock at, or derived from, solid waste facilities. This is necessary to ensure that the use of the product actually helps reduce disposal of organic waste. While renewable sources of energy and gas are of course preferable to fossil sources from a climate perspective, there is not necessarily a link between the material produced and reduction of organic waste that is disposed in landfills. For example fuel derived from corn-based ethanol or diesel may be eligible for federal RIN credits and is derived from organic material (typically corn grown in Iowa), but it lacks a demonstrable link to the organic waste reduction targets the draft regulations are designed to achieve. The comment lacks information for a process to create renewable diesel that is demonstrably linked to reductions in disposal of organic waste in California landfills. Acceptable fuels are fuels derived from renewable gas produced from recycling California, landfill-diverted organic waste.
3000	Boone, A., Center for Recycling Research	<p>The High Honor Given to High Diversion Organic Waste Processing [HDOWP] Facilities in the draft regs. The core of this issue is the role of the individual in making waste reduction and recycling happen; CEQA at PRC. 21000 (e) says that “Every Citizen has a responsibility to contribute to the preservation of and enhancement of the environment.” AB 939 relied on local governments and state policy to reduce wasting in California but, as is well known, there was as much garbage in 2015 as in 1988; the limited results of AB 939 called for, in the enactment of SB 1383, the first banning of large volumes of a non-hazardous material (named organics) from landfills.</p> <p>Organic Waste Processing facilities do not rely on “every citizen” to make less garbage; they rely on what is called “centralized separation” (as distinct from “source separation”) to get the materials involved separated out from the mass into marketable commodities. While the waste reduction and recycling industry has accomplished a lot by separating aoeer colletions what we speak of today as “dry recyclables”, the industry has been considerably less successful in developing systems to separate wet organics from other materials. In the light of today’s science and technology, to rely heavily of HDOWP filities is an error; the recent experience in Europe where the European Union has turned its back on centralized separation and abandoned the course of action that California is now planning to embark upon would be an error.</p> <p>I suggest planners consult with numerous people with recent European experiences to see how the EU’s decision in September, 2017 would impact the CA plans indicated here.</p>	A change to the regulatory text is not necessary. The comment expresses disagreement with the allowance of high-diversion organic waste processing facilities but is not suggesting a particular change in regulatory language.
3001	Boone, A., Center for Recycling Research	Fugitive Methane Emissions [FME]: CARB is well aware of the FMEs from oil and gas exploration and recovery but has very lidle information on FMEs at landfills (CARB-RS, p. 73) and even less on FMEs at AD facilities. We know now that landfills leak a substantial amount of the CH4 made in their innards (best summary known to Boone is Sally Brown’s, “Pusng the Landfill Energy Myth to Rest,” BIOCYCLE, May, 2010, the last 4 pages). It should be possible to perform a mass balance equation of methanogenic materials being processed in an enclosed container that would calculate the C atoms going in and the C atoms coming out; it could be presumed	Comment noted. The comment is addressing methane capture, which is beyond the scope of CalRecycle's regulatory authority.

Comment Number	Received From	Question/Comment	Response(s)
		<p>that the difference is “process loss” but, to Boone’s knowledge, no such calculations have ever been made. This is important because if the process loss is greater than “x” (whatever that might be), the world would do a better job by not making methane in the first place. AD is not the only method to convert unwanted and discarded organics into a useful soil amendment; aerobic digestion creates a similar product (without, admittedly, the energy side-benefits), but, if a significant portion of the methane made in this facility escapes into the atmosphere, it is not a net gain. There should be calculations.</p> <p>This message is compounded by the current waste industry’s unwillingness to speak cautiously or detrimentally of landfill methane capture; at the SWANA meeting in Baltimore in Fall, 2017, (Boone was present), you would never know that methane capture at landfills was anything other than 100%.</p>	
3002	Boone, A., Center for Recycling Research	<p>Another shortcoming of the draft regulations is the constant referral to organics as “wastes.” The term solid waste was invented in the 1960s and replaced the term “refuse” (a noun) which had replaced the earlier awkward trilogy of “garbage, trash, rubbish.” By referring to source-separated organics stored in appropriate containers and taken off site for a beneficial use as a “waste” violates the definition of recycling first clarified in the July 20, 1989 print of AB 939 where it referred to recycling as “something one does with materials that would otherwise become solid wastes.” Following this language, a properly managed discarded material is not a waste until the material is misused or not brought to an end-use that maintains the material “in the stream of commerce” (another phrase in PRC s. 41180). The reason this is important can be seen in Oakland’s recent experience with the franchising of waste collection. (This needs further fact-gathering.)</p>	Comment noted. Commenter disagrees with the use of the word "waste" as applied to organics. However, the use of the term "waste" throughout these regulations is consistent with court interpretations of "solid waste."
3003	Boone, A., Center for Recycling Research	<p>At section eight [VIII], subsection A3, entitled “Methane Emission Reductions from Diversion of Landfill Organic Waste” (SLCP-RS, pp. 125-128), CARB does not mention soiled papers as a major feedstock within the organics category, does not explore the costs and difficulties of converting methane from AD facilities into “pipeline” quality natural gas, (so-called “biogas upgrading costs” p. 126, line 7), but most damagingly, omits calculating the income to aerobically-based composting operations from the sale of finished product from the grand scheme of determining what is cost effective. The effect of this omission is to make AD and WWTP preferred alternatives as destinations for the soon-to-be-diverted organics; AD and WWTP are likely to be more costly and in public hands than the broad network of aerobic composting facilities that exist throughout northern California and are universally in private hands.</p>	Comment noted. The comment addresses CARB’s SLCP strategy and is not directed at the regulatory language of this rulemaking.
3004	Boone, A., Center for Recycling Research	<p>The future of CH4/methane as a vehicle fuel should be much more cloudy than it is presented here. In the last six months the state legislature has put a billion dollars on the table to convert all public transit in California into electric-motor-based equipment. What makes methane look good is its comparison to the dirtiest of vehicle fuels, diesel, but diesel, even so-called clean-burning diesel, is dying a rapid death in the march to more extensive emission controls. If electric motors for</p>	Comment noted. Commenter is expressing an opinion regarding the future use of methane as vehicle fuel and the future of capital investments in anaerobic digestion. Comment does not suggest a particular change in the regulatory text.

Comment Number	Received From	Question/Comment	Response(s)
		vehicles become the new standard, where will that leave dry process AD?; my guess is that, like PG&E and its high exposure to risk with power lines here there and everywhere, capital will not flow to AD but to the safer, less risky, aerobic facilities with lower start-up and maintenance costs and simpler market entry burdens.	
6096	Borden, T., City of Cupertino	If it can be demonstrated that established organics programs like the City of Cupertino's, meet the overall organics diversion goal of SB 1383, they should be granted the flexibility to build on the programs in a manner that works best for their community. This is especially true in regards to inspection and enforcement requirements, which as proposed would require additional staff without increasing the effectiveness of the existing program. Progress in jurisdictions like the City of Cupertino may only be slowed if if we are unnecessarily burdened with the one-size-fitsall requirements of the proposed SB 1383 regulations. Jurisdictions are not all alike. Those that have already made commitments to achieve Zero Waste (90 percent diversion) and have been early adopters of improvements to their programs and facilities should be allowed flexibility to determine how best to ensure compliance with organics waste reduction requirements within their own communities.	CalRecycle determined that a uniform statewide program with consistent standards was necessary to achieve the ambitious diversion targets in statute that were set on a very short timeline.
6097	Borden, T., City of Cupertino	The City of Cupertino requests that CalRecycle add the following new Section to Article 3 allowing a jurisdiction to choose an "Alternative" collection and compliance system: see language provided	Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.
6098	Borden, T., City of Cupertino	Article 13 -- Revise Section 18994.2: see language provided	A change to the regulatory text is not necessary. It is not necessary to change the title of Section 18994.2. Section 18994.2 outlines the reporting requirements for jurisdiction for Articles leading up to Article 17. Article 17 has specific reporting and recordkeeping requirements for a Performance – Based Source Separated Organic Waste Collection Service listed in Section 18998.2 and Section 18998.4. These reporting requirements include some aspects of Article 1-16 and new requirements specific to Article 17.
6099	Borden, T., City of Cupertino	The City of Cupertino requests that CalRecycle add a new Section to Article 13 to simplify the reporting requirements: see language provided A jurisdiction selecting an alternative collection system would demonstrate high diversion of organics in lieu of being subject to the inspection, enforcement and reporting requirements of Articles 14, 15 and 16. High diversion of organics may be demonstrated by the achievement of a significantly reduced per capita disposal, as measured by an equivalent overall jurisdiction diversion rate of 80 percent or higher. Per capita disposal is already measured as part of the annual AB 939 review process. If a jurisdiction fails to achieve a reduction in per capita disposal equivalent to an 80 percent diversion rate in 2025, then that jurisdiction would be required to implement one of the other three collection system options and become subject to all the requirements of Articles, 13, 14, 15, and 16. A similar "two track" compliance system was used by the State Water Resources Control Board in the adoption of its Trash Amendments for the Ocean Plan and the Water Quality Control Plan for Inland Surface Waters. The two track compliance approach offered by the State's Trash Amendments gave jurisdictions the choice of	Comment noted. Please see Article 17 for the Performance – Based Source Separated Organic Waste Collection Service.

Comment Number	Received From	Question/Comment	Response(s)
		installing trash full capture devices on inlets throughout the jurisdiction or implementing a trash load reduction program that achieves the equivalent of the State's requirement.	
6100	Borden, T., City of Cupertino	Article 10, Section 18991.3 Commercial Edible Food Generators - The Proposed Regulation should clarify that food sales at large events and large venues that are NOT a part of the venue's direct concession services should be exempt from the food donation requirements. Examples include food trucks located in/at large venues and events, nonregulated food vendors, and persons serving food outside of the event or venue such as tailgating.	CalRecycle would like to clarify that food vendors operating at large events and large venues are not exempt from the edible food recovery regulations. Large event and large venue operators must make arrangements to ensure that the food vendors operating at their event or venue are recovering the maximum amount of their edible food that would otherwise be disposed. In a situation where the food vendors at a large venue or large event are not in compliance with Section 18991.3 of the regulations, the operator of the large event or large venue would be responsible for compliance.
6101	Borden, T., City of Cupertino	Recovered Organic Waste Product Procurement-Article 12, Section 18993.1 establishes procurement targets for the purchase of organic waste products. We understand the need to create markets for recovered waste products. However the current proposal, which relies heavily on the purchase of renewable transportation fuel, is likely to result in a large investment of vehicles and equipment that can utilize these fuels. As we do everything reasonable to electrify our fleets in order to meet the State's AB 32 goals, any investments required in vehicles and equipment that run on fuels derived from organics are essentially a step backward in our mutual efforts to combat climate change.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle disagrees that RNG procurement is contrary to state goals for electrification. The use of renewable natural gas as outlined in the 2017 Climate Change Scoping Plan (2017 Scoping Plan) (CARB 2017), which is the official plan for how the state will meet the greenhouse gas emissions</p>

Comment Number	Received From	Question/Comment	Response(s)
			requirements pursuant to Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006) and SB 32 (Pavley, Chapter 249, Statutes of 2016). The 2017 Scoping Plan lists the organics diversion regulation as a measure that will be utilized to ensure this emissions reduction goal is met, and states that “procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68). Further, the regulatory procurement requirements were developed in consultation with the California Air Resources Board and the California Energy Commission. Per the provisions of Section 39730.8 of the Health and Safety Code, the regulatory procurement requirements were designed to be in alignment with the recommendations found in the 2017 Integrated Energy Policy Report (IEPR), which was developed by the California Energy Commission in consultation with the Public Utilities Commission and the California Air Resources Board.
6102	Borden, T., City of Cupertino	Article 14, Section 18995.2(c) - The proposed regulations require a jurisdiction to provide access to its implementation records within one business day. The California Public Records Act indicates an agency must provide the records within a reasonable period of time and allows ten-day period for response. We request the text change from one business day to ten days.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
1173	Bowers, Ken, Tulare County Health and Human Services Agency, Environmental Health Division	Please Remove Section I 8083(c)- It also makes those checks a performance standard of the LEA.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
9210	Bowers, M., Sunnyvale	The procurement requirement appears based on an assumption that the entire 75% diversion is happening right from the beginning. Any formula for procurement should reflect what is actually being diverted in a given year.	The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility to choose product that fit local needs. Regarding the proposal to base the procurement target methodology on "what is actually being diverted in a given year" CalRecycle disagrees. The comment lacks specific language for quantifying such an approach. Even if the commenter recommended a quantifiable way to determine this approach, California has over 400 diverse jurisdictions and it would be overly burdensome to account for each jurisdiction’s specific circumstances and to develop a procurement target and enforcement policy for each one.
9211	Bowers, M., Sunnyvale	Thank you as well for CalRecycle's changes in this most recent version of the regulations, such as allowing gray or black disposal containers and use of lid colors to designate container types. Among other things, the additional flexibility in Title 14 language about movements of remnant organic material is also welcome.	CalRecycle has revised the definitions of the containers to be consistent with each other. Also, thank you for the comment related to the increased flexibility regarding the color and hardware of the containers.

Comment Number	Received From	Question/Comment	Response(s)
9212	Bowers, M., Sunnyvale	<p>We understand and agree with the urgency and importance that CalRecycle and the Air Resources Board attach to the goal of increasing diversion of organics. However, we remain concerned that the very prescriptive and process-oriented approach taken in the proposed regulations does not well support achievement of the organics goal. Making serious inroads with food scraps diversion, in particular, requires literally getting into our residents' kitchens, which gets very personal and is not always well received by residents. In rolling out our organics diversion programs we have found that success requires education, awareness, and informed consent. Prescriptive approaches risk backlash founded in emotions, world views, and other uncontrollable human factors. The punitive, enforcement-based approach to residents and businesses will make it harder for some of our customers to contemplate making the behavior changes needed to reach the very ambitious goals set by SB 1383.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
9213	Bowers, M., Sunnyvale	<p>41) "Non-compostable paper" – Plastic coatings are mentioned among reasons why a paper item would not break down in the composting process. The definition would be more complete and informative if other reasons were added. For example, waxed and "wet strength" papers are also designed in various ways to not break down when placed in cold storage and are other common types of non-compostable paper.</p>	<p>It is not necessary to define the term "breakdown." The term is only used once in the regulation in the definition of non-compostable paper. "non-compostable paper includes, but is not limited, to paper that is coated in a plastic material that will not breakdown in the composting process." It is clear from how the term is used that "breakdown" means to fully breakdown from the original material into compost. There is no degree or "extent" of breakdown to define. If a material does not breakdown into compost during the composting process it is non-compostable. Non-compostable paper should not be collected for composting and put into the composting process. However; the regulation is not limited to requiring the recovery of "compostable" organic waste composting is not the only method of recovery, and just because a material is not "readily compostable" does not mean that it is not organic waste, and not a part of the material the state must reduce from disposal and include in the regulations. There are other means of recovering organic waste. Non-compostable paper may be more suited for collection and recovery with other paper material for recovery, rather than food waste and green waste.</p>
9214	Bowers, M., Sunnyvale	<p>(46) "Organic waste" – The detail in the definition of organic waste varies from definitions of "organics and "organic waste" used in related statutes and regulations. For example: SB 1383 - (46) "Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>AB 1826 - (c) "Organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.</p> <p>AB 901 - (39) "Organics" means material originated from living organisms and their metabolic waste products. This includes, but is not limited to, food, "agricultural material" as defined in section 17852(a)(5) of this subdivision, "agricultural by-product material" as defined in section 17852(a)(4.5) of this subdivision, green material, landscape and pruning waste, nonhazardous lumber and dimensional wood, manure, compostable paper, digestate, biosolids, and biogenic sludges; and any product manufactured or refined from these materials, including compost, and wood chips.</p> <p>It is operationally important to have consistently applied terms, especially a term as important and commonly used as "organic waste". The proposed regulations advance a definition that is both impractical and inconsistent with existing definitions of the same term. We do not believe the definition should include items like organic textiles and carpets, biosolids, digestate, and sludges. Carpet, for example, can be made of many different materials and the general public is not going to accurately differentiate between various types of carpet for purposes of compliance with these rules.</p>	<p>requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
9215	Bowers, M., Sunnyvale	<p>(66) The purpose of creating this definition of "Self-hauler" is unclear, particularly considering how the term is used in Article 13 (see the Article 13 comment that follows). As defined, "Self-hauler" is so broad that could describe nearly every resident, business, government facility or other entity in California. For example, it would include a person who transported their own empty beverage containers by foot, bicycle or auto to a CRV redemption center.</p>	<p>The purpose of the definition of "self-hauler" is to define a term used in the regulations. By necessity, this definition needs to be broad and flexible.</p>
9216	Bowers, M., Sunnyvale	<p>66)(A) The "Back-haul" definition describes waste transportation actions that, under some circumstances, violate laws, ordinances, etc. We ask that the phrase "in conformance with applicable local and state laws and permit requirements" be added to the end of the definition.</p>	<p>The "back-haul" definition is intended simply to clarify a portion of the definition of "self hauler" and the definition itself is not the appropriate mechanism to place specific requirements on how self-hauling or back-hauling is conducted. Furthermore, Public Resources Code Section 40059(a)(1) specifically places aspects of solid waste handling which are of local concern, such as means of collection and transportation, within the local control of counties, cities, districts, or other local governmental agencies. In addition, SB 1383 (in Public Resources Code Section 42654) specifically states that nothing in these regulations abrogates or limits the authority of local jurisdictions to enforce local waste transportation requirements. Commenters asked CalRecycle to consider whether the definition of self-hauler is needed since it is so broad. If it is needed, the definition needs to be revised and it needs to be clarified on how the Department will be getting information from jurisdictions about the self-haulers.</p> <p>Section 18994.2(f)(4) regarding reporting on the number of self-haulers by the jurisdiction was deleted. However, the definition in Section 18982(a)(66) is still needed.</p>
9217	Bowers, M., Sunnyvale	<p>77) "Yellow container" – Sunnyvale uses yellow cart lids for the food scraps side of our FoodCycle garbage/food split carts. A neighboring jurisdiction uses the same cart, but with a brown lid for the food compartment. After observing the carts in use, we find that brown is the better color—it "shows" dirt less and cart</p>	<p>CalRecycle responded to stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>manufacturers tell us that they can use higher percentages of recycled plastic to make brown, vs. yellow lids. So, in the interest of clean appearance and plastics recycling market development, we ask that this definition be changed to require brown (or allow the use of either brown or yellow).</p>	<p>higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic. The jurisdiction would be able to continue to use the brown containers for manure until they reach the end of their useful life or until 2036, whichever comes first.</p>
9218	Bowers, M., Sunnyvale	<p>In Section 18983.2(a)(3), approval of a proposed process or technology depends entirely on a pass/fail conclusion that the process or technology results in GHG emissions reductions equal to or greater than 0.30 MTCO₂e per ton, which is described as the GHG reduction achieved by composting mixed organic waste. The ISOR goes into great detail in describing a basis for the 0.30 MTCO₂e benchmark. Assuming for the sake of argument that the ISOR calculations are correct, they set this benchmark based on an average for mixed organic waste. But material-specific values for compostability and potential to emit carbon vary considerably from the average. Thus, the methodology may block the use of valuable technologies that target the “below average” items that do not compost well. For example, a technology that targeted diversion of source-separated organic carpet or lumber, items which release little carbon to the atmosphere but which we still want to divert from disposal, could easily fail to pass the 0.30 MTCO₂e hurdle. The rigid 0.30 MTCO₂e standard could prove to disqualify otherwise valuable diversion methods and hamper the achievement of the diversion goals stated in SB 1383. We ask that this section be revised to provide the CalRecycle Director more flexibility for approval of proposed processes and technologies.</p>	<p>Several commenters suggested providing more flexibility to consider new technologies that target diversion of source-separated organic materials that do not compost well such as carpet or lumber, and that have a lower methane emissions reduction potential than mixed organic waste decaying in a landfill. The point of utilizing the greenhouse gas reductions associated with composting as a threshold was not to incentive composting, but rather to set a reasonable threshold for ensuring that the regulation incentivizes the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 and the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO₂e per short ton organic waste was set to ensure emission reductions for any new technology are comparable to the emission reductions necessary to achieve the strategy’s emission reduction goal of 4 MMTCO₂e for this sector.</p>
9219	Bowers, M., Sunnyvale	<p>While we recognize and appreciate CalRecycle’s efforts to provide for a variety of collection strategies, the “three-container/two-container/single-container” options are very prescriptive, contain detailed, inflexible requirements, fail to consider unavoidable variations in how organics are collected, processed and marketed, and are tied to the problematic reporting and enforcement regime detailed in Articles 13, 14, 15 and 16. To maximize the suitability for recycling of the materials we collect, Sunnyvale uses a “five-container” system that provides residents a yard trimmings cart, a dual stream recycling cart (split between paper and containers), and a dual-stream garbage cart (split between food scraps and garbage). While we think this highly effective system complies with Section 18984.1, the extremely prescriptive wording of the section leaves some uncertainty. CalRecycle may feel it needs to take this detailed approach with jurisdictions that are resistant to increasing their organics diversion. However, many jurisdictions, including Sunnyvale, are already pursuing Zero Waste goals in ways that also promote 70% and 75% organics diversion. Thus, we support the creation of an “Alternative 4” that allows cities and counties to opt out of the prescriptive measures in Article 3, the enforcement requirements of Articles 14, 15 and 16 and reporting requirements in Article 13 that pertain to Articles 14, 15 and 16. In summary, Alternative 4 would allow a jurisdiction the option of demonstrating that it is meeting or exceeding the 70% and 75% statewide diversion goals. This would relieve the State of burdensome oversight of high performing jurisdictions</p>	<p>The regulations allow for this type of variation in the collection system. Additionally, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.</p>

Comment Number	Received From	Question/Comment	Response(s)
		and allow those jurisdictions to focus their efforts on diversion, not checklists, citations and fines. If a jurisdiction failed to demonstrate compliance through the alternative method by 2025, it would be required to implement one of the other three collection system options and become subject to all the requirements of the regulations. Suggested language is as follows:	
9220	Bowers, M., Sunnyvale	<p>We ask that a new section be added to Article 3, as follows: Section 18984.13. Alternative Collection and Compliance System (a) A jurisdiction may implement an alternative collection system that consists of any one of or any combination of those allowed under Sections 18984.1, 18984.2 and 18984.3. The alternative system may, but is not required to, incorporate the provisions required by Sections 18984.5 and 18984.6, and will furthermore be in full compliance with the requirements of Articles 14, 15 and 16 if all these conditions are met:</p> <p>(1) A jurisdiction that chooses to implement an alternative collection system must:</p> <ol style="list-style-type: none"> i. Have a Zero Waste Plan or Zero Waste Policy that was adopted prior to January 1, 2019; ii. Have an organics diversion program for both single family residential and commercial customers that was established prior to January 1, 2019; iii. Demonstrate a continued reduction in the amount of organics being disposed in landfill through one of the following measures: <ol style="list-style-type: none"> 1. A forty percent reduction in the overall population pounds per day disposal rate in 2025 as compared to 2017, demonstrated by the annual AB 939 report submitted on August 1, 2026. 2. No more than 25 percent of the total organic wastes generated in the jurisdiction is disposed in landfill. <p>(2) A jurisdiction that has not demonstrated a continued reduction in the amount of organics being disposed in landfill for the calendar year 2025 using one of the methods allowed in (iii) above will no longer be approved to implement the alternative system and must be in full compliance with all the provisions of Sections 18984.5, 18984.6 and Articles 14, 15 and 16 no later than January 1, 2027.</p>	CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.
9221	Bowers, M., Sunnyvale	<p>CalRecycle would need to document an accepted process by which the amount of disposed organic wastes could be determined. Our suggestion: A community may determine their total organic waste generation rate based on either:</p> <ol style="list-style-type: none"> 1. The statewide per capita organic waste generation rate as determined by CalRecycle, or 2. A statistically valid waste composition study that would include the determination of all organic wastes currently being diverted, and all organic 	CalRecycle has revised Section 18992.1(a)(1)(B)(1) in response to these comments. The change is to allow a local waste characterization study to be used even if it pre-dates CalRecycle's statewide waste characterization study, as long as it is conducted within five years of the next capacity planning cycle. The change is necessary for at least two reasons: 1) CalRecycle may not be able to conduct studies on a concurring and timely basis; and 2) a local study may be relevant for an extended period of time if local demographics, etc., do not change significantly.

Comment Number	Received From	Question/Comment	Response(s)
		<p>waste still being landfilled, and not to identify organics disposed as a percentage of the total waste being landfilled.</p> <p>The waste generation study (or the statewide per capita generation rate) would provide the base per capita organic waste generation rate against which compliance would be measured. If a full waste generation study was chosen it would identify all organic wastes generated, including organic wastes prevented by actions of the jurisdiction, all organic wastes diverted within the jurisdiction, and all organic wastes still being landfilled. This would include sampling to determine the amount of organic waste generated in the residential sector and separately in the commercial sector (including compactors but not C&D materials). These amounts would be combined to calculate a per capita organic waste generation rate, which would be used to calculate the overall per capita waste generation rate for future years.</p>	
9222	Bowers, M., Sunnyvale	<p>Section 18990.1(b)(2) states that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition or initiative that includes provisions that..." Limit a particular solid waste facility, operation, property, or activity from accepting organic waste imported from outside of the jurisdiction for processing or recovery."</p> <p>Section 18990.1(c) then lists five specific exceptions to the statement in the preceding paragraph. Missing from the list of exceptions is a situation where, as in Sunnyvale, a jurisdiction is a market participant that owns and operates its own facility and may choose to contract directly with other jurisdictions to also provide services to them. We do not believe the regulations intend to say that our MRF/transfer station must accept organic waste from any entity that shows up at the gate without that entity having made contractual arrangements and/or agreeing to pay the required charges.</p> <p>Thus, we ask that you add a Section 18990.1(c)(6) stating words to the effect of, "[does not] Require a publicly-owned solid waste facility or operation to accept organic waste from outside the facility's service area boundary or from a jurisdiction, generator or hauler that does not have a contractual or business relationship that provides for disposal of organic waste at the facility."</p>	A text change is not necessary because Section 18990.1(c)(4) does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery.
9223	Bowers, M., Sunnyvale	<p>The concept of requiring cities, counties and special districts to purchase compost and/or "renewable transportation fuel" derived from "California, landfill-diverted recycled organic waste" is a concept not found in the statute. The amount the City is required to purchase assumes that local government accounts for 13% of gross domestic product (GDP) and that local government can and must use 13% of all diverted organics. The calculations are also optimistically based, starting Day One, on the tonnage diverted in 2025 if the 75% diversion level is achieved.</p> <p>The assumptions and specifics of Article 12 are problematic in several ways.</p> <ul style="list-style-type: none"> o State agencies, schools and other entities have no corresponding purchase requirements and penalties. This inconsistency appears arbitrary. Why are 	<p>SB 1383 provides a broad grant of regulatory authority to the Department that would include procurement requirements that CalRecycle has determined are necessary to achieve the organic waste diversion goals in statute by ensuring an end use for processed organic waste. Public Resources Code Section 42652.5 states that, "The department, 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." That section also provides that the Department may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, the Department also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>state agencies, etc. not required to take similar procurement actions as jurisdictions?</p> <ul style="list-style-type: none"> o The per capita quantities appear to overstate what is practical and achievable. When we calculate the Sunnyvale purchase quantities, the City must purchase more than 6,200 tons per year of compost. The City currently purchases and distributes free to its residents on 362 days per year, unlimited amounts of compost. Annual demand for this material is just 500 tons. If we assume that City workers and contractors consume a similar amount, bringing the annual total to 1000 tons, that still only brings City consumption to 16% of the required amount. o The City may attempt to comply with purchases of, “renewable transportation fuel,” (very narrowly defined as fuel derived from renewable gas from organic waste that has been diverted from a landfill and processed at an in-vessel digestion facility...” To do so would require (assuming a fleet average of 20 mpg) buying enough fuel to drive over four million miles annually. The fact that consumption of such huge amounts is required for compliance calls into question the assumptions and methodology used to calculate the per capita requirement. o Limiting solid end products to “compost” fails to recognize the many other uses made of diverted organics, especially mulch and similar products. o Limiting biofuel to transportation uses fails to give credit to other legitimate uses of renewable methane gas made from landfill-diverted organics, such as pipeline injection and generation of electricity (the latter being the outcome for a portion of the material collected by the City’s food scraps collection program). o Limiting the feedstock for the purchased materials to California sources may conflict with the Commerce Clause of the United States Constitution. Federal courts have consistently frowned on states acting to restrict sources and destinations of trade based on state boundaries. <p>We ask that CalRecycle replace the Article 12 mandate with a simple requirement that all government entities in California, including state agencies, schools, etc. specify recycled material when purchasing compost, mulch and similar products. If a procurement requirement is retained, we ask that it:</p> <ul style="list-style-type: none"> • Allow biogas uses other than transportation fuel to qualify • Allow mulch and similar waste-derived materials to qualify • Use calculation factors that result in required amounts bearing some resemblance to what a jurisdiction is capable of consuming. • Use calculation factors that adjust annually in accordance with how much organics is actually being diverted during that year. 	<p>(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where the Department successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p> <p>Although the proposed regulations limit procurement of recovered organic waste products to certain enumerated products made from California, landfill-diverted recycled organic waste,</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>relevant U.S. Supreme Court cases regarding the dormant Commerce Clause allow for regulation that discriminates against interstate trade if it serves a legitimate local purpose that cannot be served as well by available nondiscriminatory means. <i>Maine v. Taylor</i>, 477 U.S. 131 (1986); <i>Hughes v. Oklahoma</i>, 441 U.S. 322, 99 S. Ct. 1727 (1979).</p> <p>Here, the legitimate local purpose is to achieve the organic waste diversion goals enumerated by the Legislature in SB 1383. An essential component of achieving such goals is to ensure markets for organic material diverted from landfills within California to prevent that material from being disposed due to lack of end uses. End-use markets must be limited to products actually generated from in-state, diverted organic waste to be consistent with the statutory goals of SB 1383. An alternative, non-discriminatory requirement that allows procurement of out-of-state compost, RNG transportation fuel or other such products would have no effect on preventing the disposal of organic waste in California and would therefore have no nexus to achieving the goals laid out in SB 1383.</p> <p>CalRecycle amended the proposed regulations to expand the list of recovered organic waste products to include mulch and renewable gas for electricity and heating applications. In addition, Section 18993.1(h) of the proposed regulations is included to provide a “safety valve” to address any cases where procurement targets exceed local need in order to relieve jurisdictions of purchasing excess or unnecessary recycled organic waste products.</p>
9224	Bowers, M., Sunnyvale	<p>With reference to our previous comment on the definition of “Self-hauler,” the purpose of this requirement to annually report, “The number of self-haulers approved to operate within the jurisdiction” is unclear. As defined, all waste generators in Sunnyvale are approved self-haulers.</p> <p>We ask that you review the self-hauler definition and all requirements related to self-haulers and amend the regulations to clearly state what information is to be reported, and why.</p>	<p>CalRecycle has revised Section 18988.3 in response to this comment. The change omits the requirement for a self-hauler to annually report the amount and location/address of source separated organic waste in tons that was self-hauled in the jurisdiction. In respect to Section 18994.1, the reporting requirement for the tons of organic waste that were disposed as a result of waivers identified in Subsection (1), the data collected in regard to AB 901 in the Recycling and Disposal Reporting System (RDRS) does not track the amount of organic waste disposed. If it is considered solid waste, the regulations do not require solid waste disposed to be divided between “trash” and “green material,” so obtaining this information from RDRS is not possible.</p>
9225	Bowers, M., Sunnyvale	<p>This item asks jurisdictions to report, “the volume of each recovered organic waste product procured...”</p> <p>Elsewhere in the regulations, solid materials are measured by mass (tons, pounds, etc.). Is volume used here purposefully, or should “weight” or “mass” be substituted?</p>	<p>The word “volume” has been replaced with “amount”. Recovered organic waste products are measured in different units. For example, compost is measured in tons or cubic yards, while renewable transportation fuel is measured in diesel gallon equivalents (DGE).</p>
9226	Bowers, M., Sunnyvale	<p>The requirement to provide access to records within one business day is unreasonable. There are a host of legitimate reasons that may prevent this standard from being met, including employee workload and absences due to vacation and illness. We ask that this requirement be revised to be consistent with the Public Records Act, which provides 10 days, consistent with this document’s reference to the PRA in 18995.2(g).</p>	<p>CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.</p>
9227	Bowers, M., Sunnyvale	<p>The proposed regulations appear in this section to exceed the statutory authority granted by the SB 1383 statute. Most notably, the statute says, in Section 42652.5(a)(1), “The regulations...may authorize local jurisdictions to impose penalties on generators for noncompliance.” But Section 18995.4(a)(1) –</p>	<p>The enforcement process in the regulations is only triggered upon a Notice of Violation (NOV) and a jurisdiction would have discretion whether or not to issue an NOV.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Enforcement by a Jurisdiction – says, “The jurisdiction shall issue a Notice of Violation to any entity found in violation...”</p> <p>If the regulations continue to take their current, very detailed and prescriptive approach, we ask that Article 14 be revised to conform to the statutory language, i.e. that jurisdictions may (not shall) take enforcement action.</p>	
9228	Bowers, M., Sunnyvale	<p>We count 43 separate, process-oriented actions, reports, etc. required of a jurisdiction, for each of which CalRecycle may cite and fine the jurisdiction. Few, if any of these citable offenses directly relate to the goal of SB 1383, which is to reduce carbon emissions from end-of-life handling of organics.</p> <p>We separately count 25 separate items for which the City must (not “may,” but “shall”) cite and fine its customers—the residents and businesses who pay the bills for our diversion programs and to whom we provide recycling and solid waste services. There are seven similar items that call for citations and fines for our hauler and other contracted service providers.</p> <p>As we learned from our rollout in 2017 of residential food scraps diversion programs, the types of behavior changes required to implement effective organics programs provokes strong emotional reactions from some members of the community. Residents will react to citations and fines in negative ways that will make it more difficult for us to get across the message that organics diversion is a beneficial behavior and the “new normal.” Considerably more state-wide public understanding of the issues driving the need for higher levels of organics recycling is needed. Coercive, punitive approaches will not gain the public trust and cooperation needed to realize the goals set in SB 1383. We ask that you back up, then substantially revise the regulations to take a more collaborative and less punitive approach in this area.</p>	<p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties.</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p> <p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p>
9229	Bowers, M., Sunnyvale	<p>Thank you for making changes to this definition of Regional Organic Distribution Center, upon which we commented during the informal process. However, the new language is unclear on exactly what materials stores may send back to a distribution center.</p> <p>The term “produce” in the definition is lined out and replaced with “organic,” so it reads, “‘Regional Organic Distribution Center’ means a distribution center that receives unsold and packaged food produce (sometimes referred to as “pre-consumer” back from stores to which it was originally sent and which remains the</p>	<p>Package food produce would include any produce that requires de-packaging.</p> <p>CalRecycle has revised the definition of “Regional Organic Distribution Center” in response to comments. The change clarifies that these activities would be allowed to receive unsold food produce, including packaged food produce which should encourage high recovery rates. Since the proposed regulations require a regional produce organic distribution center to transfer the waste it handles to a beneficial use or for further processing, more unsold package and unpackage produce from stores should be diverted from disposal.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>property of the distribution center or stores, for the purpose of data collection, depackaging, and transferring this produce and other food to a compostable material handling operation or facility, in-vessel digestion operation or facility, or to another beneficial use” [sic].</p> <p>What does “packaged food produce” mean in this context? Does this definition limit such facilities to handling only packaged food?</p> <p>If these facilities are allowed to handle produce, we must repeat our concerns, which are based on knowledge of the material outputs of at least one very large regional grocery distribution center. This facility receives, via backhaul in food delivery trucks, rotten and unmarketable produce from stores, among other things. Our observations of materials delivered from this grocery distribution facility to a third-party compost facility revealed little diversion of recyclable material prior to delivery of “organics” to the compost facility. The loads of “organics” we saw and were told about contained large amounts of rigid plastic trays, recyclable corrugated cardboard, boxes of glass bottles full of wine and liquor, and significant amounts of other materials that (1) do not meet the specifications of the compost facility operator and will contaminate the finished product, (2) will be disposed at a landfill by the compost facility operator and (3) could have easily been recycled at the stores, using services provided by the City. We believe that this industry sector requires more, not less, regulation so far as its handling of recyclables and organics.</p>	<p>These activities, while handling materials that might be considered putrescible wastes, do not engage in the types of waste handling activities that are intended to be regulated by the solid waste transfer/processing permitting provisions. The restriction that the food produce be sent back to the original distribution center that sent it and the purpose for returning the food produce to the distribution center should minimize public health, safety, and environmental issues at the distribution centers. Nothing precludes the enforcement agency from inspecting an activity to verify that the activity is being conducted in a manner that complies with the applicable definition.</p> <p>Comment noted. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking.</p>
9230	Bowers, M., Sunnyvale	<p>See the immediately preceding comment. The proposed change to Table 1 appears to exempt “Regional Organic Distribution Centers” from Title 14 regulation. Based on the inputs and outputs of the distribution center we are familiar with, it appears to function as a solid waste transfer station and should be permitted and regulated as such and subjected to LEA oversight, NOT exempted from regulations.</p> <p>Sections: 17409.5.2 (Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream) 17409.5.3 (Measuring Organic Waste in Residuals Removed from Mixed Waste Organic Collection Stream) 17409.5.4 (Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream) 17409.5.5 (Measuring Organic Waste in Residuals Removed from Source Separated Organic Waste Collection Stream) 17409.5.8 (Incompatible Materials Limit in Recovered Organic Waste) 17867(a)(16)(B) (Composting Operation and Facility Siting and Design Standards) 17896.25.1(a)(1) (In-Vessel Digestion Operations and Facilities Regulatory Requirements) 17896.44.1 (Measuring Organic Waste in Residuals)</p> <p>Each of these sections proposes to require operators of facilities that process organics to capture, at least daily, very large (one cubic yard) samples from various process streams and perform detailed waste characterization sorts to document levels of organics and contaminants. These requirements are:</p>	<p>Regarding changing the permitting tier for the Regional Organic Distribution Centers: Comment noted. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking</p> <p>In addition, nothing precludes the enforcement agency from inspecting an activity to verify that the activity is being conducted in a manner that complies with the applicable definition.</p> <p>In regards to the methodology: CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling one cubic yard.</p> <p>The sampling frequency 10 consecutive days was based on that 2 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 the “2014 Disposal-Facility- Based Characterization of Solid Waste in California”,</p>

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> not based on statistical science will generate no more useful data than could be obtained by combining scale data for inbound and outbound shipments with less costly and intrusive sampling methods will consume vast amounts of time, labor, money and physical space that will be far in excess of the value of the information gained. <p>Equivalent performance tracking information can be obtained with sampling events conducted quarterly that use multiple small samples and thus improve the validity of the data.</p> <p>The “Alternatives to Measurement Protocols” provisions in 17409.5.9 are appreciated, but require approval by the LEA and concurrence by CalRecycle, neither of which a facility operator can count on obtaining. That leaves the unacceptable methods in the five sections listed above as the benchmark for compliance.</p> <p>We ask that CalRecycle engage experts in scientific sampling and statistics to recast Article 6.2, sections 17409.5.1 through 17409.5.5 so that valid information can be obtained in a more reasonable manner. Sunnyvale uses such sampling in its management of the Sunnyvale Materials Recovery and Transfer Station (SMaRT Station). The City and its municipal partners have long been keenly interested in the composition of SMaRT Station material streams because we use the information to determine each city’s share of millions of dollars of recycling revenue. Attachment 2 and Attachment 3 to this comment letter are copies of the detailed protocols our facility operator is required to use when determining the compositions of various process streams. The protocols display the complexity and amount of work required to do scientifically valid sampling correctly and well make the point that these four sections will be unworkable if they remain in the adopted regulations.</p> <p>17409.5.11(b)(1) (Remnant Organic Material in the Gray Container Collection Stream)</p> <p>17867(4)(A) (General Operating Standards)</p> <p>Title 27, 20901(a)(1) (CalRecycle—Loadchecking Contamination in Source Separated Organic Waste)</p> <p>These sections state, “One loadcheck shall be conducted for every 500 tons of [gray container/source separated organic] waste received per operating day. If the operator receives less than 500 tons for the operating day, a minimum of two (2) loadchecks shall be performed for that operating day.”</p> <p>Is the word “less” in the second sentence (in bold text above) instead meant to be “more”? As written, the requirement seems to require a minimum of two loadchecks per day, regardless of how little waste is received at the facility. For example, a 25-ton per day facility would still need to perform two loadchecks.</p>	<p>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% 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%, 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 2 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 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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” collections streams are reflected in the sampling. Based on the expert 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p> <p>Regarding the loadchecking:</p> <p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
9231	Bowers, M., Sunnyvale	Section 21695	CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain

Comment Number	Received From	Question/Comment	Response(s)
		<p>The Status Impact Report (SIR) is required of all landfill operators within 180 days of the effective date of the regulations. The practical purpose of this costly requirement is not evident. The disposal reductions created by increased diversion of organics will not have yet occurred. Sources and flows of disposed waste are complex and operators are likely to be unable to predict with any accuracy how future quantities will change as a result of the regulations, in terms of either mass or volume. This means that each analysis and report will be based primarily on speculation by the engineer or certified engineering geologist who prepares the report. The complexity of primary and secondary flows of diverted organics may result in unexpected disposal decreases at some sites and unexpected increases at other sites that (for example) specialize in receiving residues from organics processing.</p> <p>The ISOR document does not provide any insight into the overall purpose of this requirement or the individual required actions. The ISOR statements provide no insights, as they are almost entirely couched in circular reasoning that says, in effect, "the purpose is to require operators to do what the regulations tell operators to do." The ISOR language reveals no apparent purpose for this exercise and there does not appear to be a link between this section and the statutory language in SB 1383.</p> <p>Given the above, we recommend that CalRecycle either:</p> <ol style="list-style-type: none"> 1) Delete Section 21695 entirely, or 2) If gaining useful information on changes to landfill flows, closure dates, etc. resulting from disposal flow changes caused by SB 1383 is a priority, delay by 3-5 years the date on which these reports are due, and make the requirement conditional on actual, observed changes in flow to a particular landfill that exceed a specified threshold (e.g. an increase or decrease of more than 10% from 2018 tonnages). <p>As written, Section 21695 does little more than soak up cost and technical skill. That money and skill would be better spent focusing on designing, funding, siting permitting and operating the organics diversion facilities needed to achieve the diversion goals of SB 1383.</p>	<p>with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations.</p> <p>The SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order properly implement any changes or modifications to the landfill in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p> <p>In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills. If there will be no changes to a particular item, then a statement to that effect would be adequate.</p>
9232	Bowers, M., Sunnyvale	Please see attached document. Protocols for Waste Characterization study	Comment noted, thank you for providing reference material.
9233	Bowers, M., Sunnyvale	Please see attached document. Waste Characterization Methodology	Comment noted, thank you for providing reference material.
5015	Braicovich, J, CR&R Environmental Services	<p>The definition of Organic Waste is too broad and ambitious and has the potential of creating confusion with the public and solid waste handlers regarding SB 1383. The definition, for example, includes paper products, which are further defined as "paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling." Many of these material types are not typically accepted in organic waste recycling streams. Additionally, the definition includes the term "organic textiles and carpet".</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>How is one to accurately determine what is considered organic versus non-organic carpet and textiles? It is critical that the definition clearly separate out what materials are expected to be collected and managed programmatically from other material. In addition, for AD systems such as ours, these materials do not possess any energy value and they disrupt the biological process inside our digesters. Paper products have always been a part of the regular recycling stream and they should stay there in order to avoid confusion by the general public.</p> <p>Organic textiles and carpet should be left in the regular waste stream because it will be virtually impossible for haulers to be able to differentiate organic vs. non-organic materials. We strongly urge Cal Recycle to strengthen the current producer responsibility regulations for carpet in order to divert these materials and avoid additional confusion by including them in the definition of organic waste.</p>	<p>therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Textiles and carpets are not normally accepted by organic waste recycling facilities such as composting or in-vessel facility that takes materials in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.</p> <p>While carpets and textiles may be handled in a different manner, some jurisdictions may allow them to be placed in the gray container. Carpets and textiles are allowed in the gray container regardless of where the contents of the container are subsequently managed i.e. if these are the only organic wastes allowed in the gray container the container does not have to be transported to a high diversion organic waste processing facility.</p>
5016	Braicovich, J, CR&R Environmental Services	<p>Section 18984.1 Three - container Organic Waste Collection Services Current language states that the blue container may be used to collect organic waste including "textiles". As presented, it appears the terms textiles and organic textiles are intended to be synonymous. Is the term textiles meant to be organic textiles per the definition of organic materials? Cal Recycle must keep in mind that it has taken over 30 years to train the general public on what is recyclable and what is not. Adding textiles and carpet to the proposed definition of organic waste will only serve to further confuse the public and increase contamination rates. Section 18984.2 Two-container Organic Waste Collection Services It is stated that carpet and textiles may be placed in the gray container. Are these meant to be the same terms as organic carpet and textiles? If so, the terms need to be modified. If this is the case, then why even define these materials types as organic materials as it even creates more confusion. We strongly urge CalRecycle to eliminate organic carpet and textiles from the definition of Organic Waste.</p> <p>Subsection 2 makes it clear that the green container is only for the collection of organic waste. In Subsection 3 it says if either container is intended for the collection of both organic waste and nonorganic waste. This is confusing.</p>	<p>Yes, this refers to organic textiles. In the two container collection system, the language was revised so textiles do not go in the gray container. Also, any organic waste that is not specifically allowed in the blue container can go in the gray container.</p>
5017	Braicovich, J, CR&R Environmental Services	<p>Section 18984.5 Container Contamination Minimization CR&R has over 1,000 collection routes with approximately 900-1000 customers per residential route. This equates to an inordinate amount of route sampling that would have to take place on a quarterly basis. If only 10% of the containers were sampled on a quarterly basis this would result in the need to sample approximately 100,000 containers per quarter or, approximately 1,500 containers daily. This is not practical, realistic or attainable. It is suggested that the frequency of audits be reduced to an annual activity with no more than 1% sampling requirement. If the current requirements are maintained it would require an increase in the number of routes that we are currently running and an increase in the number of route</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. The regulations were revised to annual. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>auditors which would in turn increase miles driven and increase our carbon footprint.</p> <p>The current regulations address finding prohibited container contaminants in a container as being an issue. While too much contamination is potentially an issue, every container contains some level of contamination. There needs to be some level of guidance regarding what level of contamination is considered acceptable. Also, please keep in mind that CR&R has invested millions of dollars on front-end clean-up systems, in addition to public education and outreach, in order to produce clean organics for our digesters. We have been recycling for decades and we understand that when you're dealing with the general public there will always be some level of contamination, no matter how much public education you do. Our investment in our front end clean up systems are meant to do what the customer may not do.</p>	<p>monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
5018	Braicovich, J, CR&R Environmental Services	<p>Section 18984.11 Waivers and Exemptions Granted by a Jurisdiction</p> <p>It is stated that a jurisdiction may request a waiver for commercial businesses that have 2 cubic yards of waste per week and organic waste of less than 20 gallons per week. This is overly burdensome on these small businesses and has the potential of creating poor relationships between haulers, jurisdictions and businesses. These small businesses contribute very little to the overall solid waste generation and recovery in jurisdictions. This can be supported with empirical data. When jurisdictions were required to perform waste generation studies under the auspices of AB 939, through Cal Recycle staff reviews, it was determined that these small businesses contributed very little to the waste stream. Historical information supporting this claim should be readily available at CalRecycle headquarters. It is suggested that rather than creating a waiver and exemption process for these entities, they should be permanently exempted.</p> <p>Section 18986.3 Waivers for Non-Local Entities and Local Education Agencies</p> <p>There should not be a process to waive entities that produce two cubic yards or less of materials. This should just be done automatically as materials in these containers do not have much of an impact on the overall program success. Managing the waste in these containers is very time consuming for the overall benefit of the program. If generators of these containers want to participate in the program that would be acceptable, but do not mandate it.</p>	<p>Automatically and permanently exempting small businesses could compromise the state's ability to achieve the organic waste reduction targets. According to jurisdictions with similar de minimis waivers, very few businesses would qualify for this waiver, so automatically and permanently exempting all small businesses would undercut organic waste diversion and the goals of SB 1383. Permanently exempting non-local entities and local education agencies would compromise the state's ability to achieve the organic waste diversion goals for the same reasons. Although these entities may produce smaller amounts of organic waste than other generators, the cumulative impact of permanently exempting them from the collection requirements, even if they produce more than two cubic yards of materials, would be considerable.</p>

Comment Number	Received From	Question/Comment	Response(s)
5019	Braicovich, J, CR&R Environmental Services	<p>Section 18993.1 Recovered Organic Waste Product Procurement Target</p> <p>If a hauler is producing RNG fuel from the processing of their organics and then using all of that fuel in their collection vehicles for the purpose of providing near zero emission, sustainable collection services for their particular community, they should be allowed to become a designee of the jurisdiction. The use of a designee is already used in these regulations for other purposes. In addition, if a hauler is already marketing the compost that it produces from their anaerobic digestion process, and using the material in organic bagging operations on a large scale, those activities should not be counted against the hauler or jurisdiction either. We have worked extremely hard to create sustainable end markets for our materials (RNG and compost) and we think consideration needs to be given for those activities. Our jurisdictions do not need to worry about procuring their materials because we are taking care of the back end process for them. Consideration must be given to on-going AD technologies and processes which currently divert organics from the landfill and provide a highest and best use for the endproducts. The use of a designee should hold consistent for other procurement activities as well. We are not opposed to the current language but there should also be language that allows for technologies like ours to count towards the jurisdiction's procurement requirements.</p>	<p>CalRecycle disagrees with the interpretation that a designee, such as a hauler, would not be eligible to count towards a jurisdiction's procurement target. The current draft regulations allows a jurisdiction to meet its recovered organic waste product procurement target through a direct service provider, who procures recovered organic waste product(s) on behalf of that jurisdiction. CalRecycle has revised the regulatory text in Section 18982(17) to amend the definition of "direct service provider" to clarify that a contract or other written agreement, for example a Memorandum of Understanding (MOU), could be used to prove the direct service provider relationship.</p>
5020	Braicovich, J, CR&R Environmental Services	<p>Section 18995.1 Jurisdiction Inspection and Enforcement Requirements</p> <p>A compliance review of all commercial garbage accounts in a jurisdiction is not practical or feasible for jurisdictions as the cost is extremely prohibitive as compared to the potential gains that are received. In some cases we are talking about literally tens of thousands or millions of accounts. Reviewing all these accounts is simply impractical and unattainable. Additionally, as mentioned above, businesses with containers of 2 cubic yards or less should be automatically exempted from the program as they contribute very little to the overall volume of solid waste generated in a city.</p>	<p>A change to the regulatory text is not necessary. A compliance review does not require a physical inspection of each commercial business that is subscribing to collection service. This was intended to be a desk review of all garbage accounts within the jurisdiction and to verify collection service. Businesses that generate less than two cubic yards of solid waste and produce organic waste are excluded from this requirement.</p>
5021	Braicovich, J, CR&R Environmental Services	<p>Section 17402.a.(7.5) Transfer/Processing Operations and Facilities Regulatory Requirements Definitions</p> <p>"Incompatible material includes organic waste that the receiving end-user ". How is this specifically being defined? For example, do palm tree waste and other such materials that may pose an issue for a particular facility become exempted? This appears to be a situation of case by case analysis. How are final determinations to be made?</p>	<p>A change to the regulatory text is not necessary. Yes, your understanding is correct that "incompatible material" is determined by what the receiving end-user is designed, permitted, or authorized to process. In your example, if the end-user is not designed to receive palm tree waste then it would be considered "incompatible material" instead of recovered organic waste. Basically, the final determination of what a receiving facility can accept would be based on the receiving facilities permit. In addition, the facility can reject any load the operator determines cannot be processed or if they determine the level of contaminant is too high.</p>
5022	Braicovich, J, CR&R Environmental Services	<p>Section 17409.5 Load checking- Prohibited Wastes</p> <p>The requested load checking is much too frequent. If an operator does not have a history of excessive contamination and their material is considered clean by the end user of the material, there is no need for this activity. Because it is in the best interest of the processor to maintain a clean operation, let the operator handle their contamination issues. If the operator overlooks contamination in their material, they will be impacted financially as the material will either be significantly</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>downgraded or rejected by the end user, which is enough financial incentive for the operator to keep materials clean. If this activity is not eliminated at least change the frequency to no more than once per quarter.</p> <p>Section 17409.5. 7 Load checking - Contamination in Source Separated Organic Waste</p> <p>The amount of load checking is too frequent and there are no standards established. What is considered a contaminant? Title 14 requirements which often results in one load check per day should be adequate. We are not sure what is being achieved by this language. We should prioritize looking for "significant" visible contamination to ensure we are addressing the most contaminated streams. Again, it is already in the processors best interest to minimize contamination & have systems in place to remove contamination if necessary.</p>	<p>jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
5023	Braicovich, J, CR&R Environmental Services	<p>Section 17409.5.1 Organic Waste Recovery Efficiency</p> <p>This process is too frequent and potentially extremely costly, it will take up too much floor space and create logistical and personnel safety issues. Rather than daily sampling, allow for periodic sampling of one week per quarter.</p> <p>Section 17409.5.2 Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream</p> <p>Taking one cubic yard samples from each organic waste type separated after processing at the facility on that operating day is not workable. There are too many waste types defined under these proposed regulations. This activity would take up too much valuable working floor space in addition to disrupting business activity and creating an unsafe working condition for staff. Please keep in mind that anytime you place human beings alongside heavy equipment the probability of an accident, injury or death increases significantly. This would also be a very time consuming and costly endeavor each time the sampling would take place. Even doing this activity based upon material type on a periodic basis would create a hardship for operators of these facilities. This process needs to be significantly scaled back or eliminated all together for safety and logistical reasons.</p> <p>Section 17409.5.6 Source Separated Organic Waste Handling</p> <p>This may conflict with safety and space considerations at some facilities. With all the space required for the various types of sampling that is to take place on site, where is the additional space going to exist for separating these waste piles from other organic materials. We need to better evaluate these proposed activities from an operational and safety standpoint. Most facilities were not designed with footprints as large as would be required for all the sampling. By squeezing in more and more activities in a confined area we will be potentially increasing the chance of an injury, accident or worse.</p> <p>Section 17409.5.8 Incompatible Materials Limit in Recovered Organic Waste</p> <p>Perform this activity on a periodic sampling basis as mentioned above. Change the frequency of sampling to a, one-week sampling per quarter. If an operator does not</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period (which is on a quarterly basis), instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p> <p>Regarding the loadchecking:</p> <p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>comply, then increase the frequency to maybe a monthly activity until compliance is reached.</p> <p>Section 17409.5.11 Remnant Organic Material in the Gray Container Collection Stream See above comments regarding load checking activity and safety concerns.</p> <p>Section 17867 Composting Operation and Facility Siting and Design Standards See above comments regarding load checking activity and safety concerns.</p> <p>Item (16) of same section As mentioned above sampling of residuals is not very practical or safe. A possible approach that would provide a reasonable estimate would be to provide estimates based upon a visual sample of the materials supported by photographic evidence.</p> <p>Section 17896.25.1 Load checking - Contamination in Source Separated Organic Waste See above comments regarding load checking activity.</p>	
5024	Braicovich, J, CR&R Environmental Services	<p>Section 17409.5.3 Measuring Organic Waste in Residuals Removed from Mixed Waste Organic Collection Stream Residuals mostly consist of commingled materials and are physically too small to accurately define by material type and weight. The accuracy of this activity is highly questionable and would be extremely costly. While it may offer additional information for Cal Recycle to obtain, the value of the data is highly questionable and of little or no value. At most this activity should only be periodic, as stated above. Visual inspections indicating estimates should be allowed as a means of measurement. This information could be supported by photographic information.</p> <p>Section 17409.5.4 Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream This is the same discussion as Section 17409.5.2 described above. Taking samples by specific waste types and weight on a daily basis is simply not practical or safe and in many cases. It is logistically not feasible. Also, as similar to all the requested sampling measurement processes mentioned in these regulations there is no guidance regarding expected accuracy.</p> <p>Section 17409.5.5 Measuring Organic Waste in Residuals Removed from Source Separated Organic Waste Collection Stream This is similar to discussion that describes Section 17409.5.3</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard.</p> <p>The sampling frequency 10 consecutive days was based on that 2 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 the "2014 Disposal-Facility- Based Characterization of Solid Waste in California", 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% 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%, 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 2 numbers (a sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "food") and</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>present a more inclusive required sample number. The average of those two numbers is 37 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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” collections streams are reflected in the sampling. Based on the expert 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
5025	Braicovich, J, CR&R Environmental Services	<p>Section 17896.44.1 Measuring Organic Waste in Residuals (at an In-Vessel Digestion Facility)</p> <p>There are no residuals after processing at the digester. The material removed is digestate which goes to an end user. Additionally, it is not possible to measure residuals in digestate as it is not in any kind of material form but a sludge like substance.</p>	<p>A change to the regulatory text is not necessary. Section 17409.5.9 allows the EA, with concurrence from CalRecycle, the flexibility to approve an alternative measurement as long as the method proposed by the operator is as accurate as the prescribed protocol.</p>
2000	Brazil, Laureteen; El Cerrito Operations + Environmental Services Division	(I don't support incineration/gasification etc.)	Comment noted.
2001	Brazil, Laureteen; El Cerrito Operations + Environmental Services Division	<p>Now that the most valuable plastics are narrow-necked containers, primarily #1 and #2, to keep recycling equipment (carts and lids) out of the landfill, will there be a requirement for closed-loop manufacturing, that is, a State level requirement to use that material as feedstock for new equipment to keep it out of the landfill?</p>	<p>These regulations do not target plastic recycling and have no provisions specific to the recycling of collection carts. This is a rulemaking to ensure organic waste diversion from landfills.</p>
2002	Brazil, Laureteen; El Cerrito Operations + Environmental Services Division	<p>Are camp grounds and Marinas that rent water equipment like boats, jet skies etc included in this law? I ask because a lot of organics (and recyclables) are generated at outdoor events, on camp grounds, at lake parties over the summer months. Many of these locations don't recycle and have yet to start a composting program. How does the law address their activities?</p>	<p>Yes, the regulations apply the organic waste generator requirements to commercial businesses.</p>

Comment Number	Received From	Question/Comment	Response(s)
2003	Brazil, Laureteen; El Cerrito Operations + Environmental Services Division	Will Transfer Stations accept food waste / food scraps for proper disposal? They accept vegetation but will their organics program be required to accept all organics for commercial composting?	Comment noted. Not all Transfer/Processing facilities are permitted to receive food waste. A Transfer/Processing Facility cannot be forced to take food waste, even if it is taking other types of organic waste (green waste, cardboard, etc.).
3320	Brown, D., Carton Council	The CalRecycle document, Summary of Changes Made to the Proposed Organic Waste Reduction Regulations lists on page 1 one of the changes made as: Removed restrictions on collecting plastic coated paper and textiles in the blue container. However, the proposed regulations on page 18 state: Article 5. Generators of Organic Waste Section 18986.1. Non-Local Entities Requirements...(1) The following shall not be collected in the green container or blue container: (A) Textiles, carpets, plastic coated paper, and human or pet waste. Please remove the reference to restricting plastic coated paper from the blue container in this and all other sections, as we believe was your intent.	Thank you for the comment. CalRecycle amended the applicable sections for consistency.
6030	Brown, K., Citizen of Oakland	Community composting sites are important for educating the public about the composting process, which leads to their greater understanding of both biology and of what goes into making good compost. That knowledge is transferrable to community buy in for larger scale corporate waste management models and helps ensure a reduction in contaminants that ends up in these industrialized composting operations.	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
6031	Brown, K., Citizen of Oakland	Community compost operations produce better compost and improve soil quality. Corporate produced compost is filled with C&D debris and is low quality.	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
6032	Brown, K., Citizen of Oakland	Small scale community compost sites are quick to start, low-cost, and with volunteers can process a quantifiable amount of food waste from their neighbors.	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
6033	Brown, K., Citizen of Oakland	SB 1383 will require cities to sign exclusive franchise agreements with out of state owned corporations to manage their compliance with the regs. The contracts make it illegal for neighbors to transport organic materials over city streets to our community composting site.	Franchise agreements are beyond CalRecycle's authority to regulate.
6339	Brown, T., City of Moorpark	Infrastructure Capacity: Neither the state as a whole, nor Ventura County locally, currently has the infrastructure needed to meet the demand for the proposed new organic waste processing. While we share the goal of developing the capacity to	The regulations include a provision to allow for a Corrective Action Plan if a jurisdiction has demonstrated substantial effort and has extenuating circumstances. In the 15-day language,

Comment Number	Received From	Question/Comment	Response(s)
		<p>receive and recycle organic waste on a very large scale, we are not likely to be able to meet that demand within the timeframes provided...Therefore, additional time to implement organic waste collection services is recommended.</p>	<p>CalRecycle has also provided an accommodation with a waiver from the collection requirements for rural jurisdictions and after 2025 for low population jurisdictions. Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
6340	Brown, T., City of Moorpark	<p>Financial Effects on Residents and Businesses Due to Recyclables Market Collapse: Like many cities, Moorpark had to approve extraordinary rate increases in 2018 and 2019 to maintain the financial viability of our waste haulers in light of the collapse of the international recyclables market following China’s “Green Wall” policies. As a result of these extraordinary increases, standard residential trash service costs in Moorpark have increased from \$26.36 per month in January 2018 to \$31.95 per month in January 2019 – an increase of more than 20% in just twelve months. Standard commercial recycling costs have increased from \$74.31 per month in January 2018 to \$116.88 per month in January 2019 – an increase of more than 57% in twelve months. Further burdening the public with the increased costs of collecting and hauling organic food waste on a large scale will compound the challenges for consumers that are already facing skyrocketing solid waste bills as Californians seek to save the nonorganic recycling industry from further collapse. Therefore, added costs to consumers should be carefully balanced with meeting environmental goals.</p>	<p>A change to the regulatory text is not necessary. Comment noted. Comment is not recommending a change to the regulatory text.</p>
6341	Brown, T., City of Moorpark	<p>Funding to Implement Trash Container Color Standardization: The proposed regulations mandate the color of trash containers: green for organic waste, blue for non-organic recyclables, and gray for non-organic waste. This requirement will certainly help large-scale, statewide initiatives to educate the public about how to properly dispose of waste, and the City is supportive of that. However, Moorpark customers will need to swap the colors of its blue and gray bins, at costs that will</p>	<p>The Legislature in SB 1383 authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>ultimately be passed on to Moorpark customers. The colors harken back to the City's historic franchise hauler having a corporate color of blue, resulting in blue trash cans in the era of single-stream waste collection. When two-can recycling was introduced, a gray can was added because the non-recyclable containers were already blue. Financial support to effective these color changes, especially in light of the financial hardships described above, would be desirable.</p> <p>Therefore, a funding mechanism is requested to help implement trash container color standardization efforts.</p>	
6342	Brown, T., City of Moorpark	Specifically targeting local jurisdictions for this special requirement disproportionately burdens local government with these costs, even though they represent a miniscule amount of the products purchased in	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in substantial additional costs. Furthermore, CalRecycle cannot impose procurement mandates on other state agencies or sectors without the necessary statutory authority, which SB 1383 lacks.
6343	Brown, T., City of Moorpark	Therefore, CalRecycle should work to develop statewide or other large-scale markets for recycled materials and develop any procurement requirements separately from these regulations.	CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
4122	CA Compost Coalition (Edgar, E, CA Compost Coalition)	<p>Article 1 The "organic waste" definition should focus on methane-generating waste, since SB 1383 is a short-lived climate pollutant strategy and should exclude carpets and textiles, which do not have posted emission reduction factors. Methane yield for solid waste components has MSW at 1.62 metric tons of carbon dioxide equivalents per wet short ton, where OCC is 2.62, magazines are 2.59, office paper is 3.89 and newspaper is 1.05. Food waste is 1.75 and yard trimmings vary from 0.57 to 0.85. Wood is low at 0.17.</p> <p>Carpets and textiles are wastes that cannot be composted, anaerobically digested, or qualify as biomass conversion, and should be removed from the definition. Carpet has its own EPR program with Carpet Care. Textiles should also have a program outside of SB 1383.</p>	Comment noted. The suggestion is beyond the legislative intent of SB 1383 as it applies to CalRecycle. The relevant statutory provisions are to divert organic waste from landfill disposal rather than achieving quantifiable methane reduction targets.
4123	CA Compost Coalition (Edgar, E,	Article 2 CCC supports technologies that constitute a reduction of landfill disposal, using composting as a benchmark technology. The industry should have the	Thank you for your support.

Comment Number	Received From	Question/Comment	Response(s)
	CA Compost Coalition)	flexibility to investigate emerging technologies that constitute reduction in disposal based upon reducing methane generation.	
4124	CA Compost Coalition (Edgar, E, CA Compost Coalition)	<p>Article 3 The three-container organic waste collection service is fantastic and has become the default collection service for most of California. With the China Sword, Californians learned that wishful recycling by placing most dry material in the blue cart backfired because offshore remanufacturing has lowered contamination limits for feedstock. ‘When in doubt, generators are now throwing it out’ to keep the recyclables cleaner. We cannot embark upon wishful composting with these new organic tons needing to be diverted, where anything that claims to be ‘compostable’ or ‘biodegradable’ is placed in the green cart. Standardized labeling throughout California on what is really compostable is needed. In concert with SB 1383, new packaging laws are needed on what is truly compostable so as not to contaminate the compost or greenwash generators. Registered “organic” composters need to be careful on feedstock types to maintain their status.</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>“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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.”</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>“With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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.</p> <p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additionally flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity to separate their organic waste for recovery at the curb. In order to ensure that the state can</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>achieve the statutory organic waste reduction targets, these collections 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)..."</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>"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.</p> <p>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.</p> <p>Therefore, in order to meet the recovery targets specified in statute and the state's ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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."</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be "protected" or provided a "safe-harbor." The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p> <p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4125	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 3 The three-container organic waste collection services will be able to meet the target of reducing organic wastes by 50% sometime past 2020. Since the reduction disposal targets are not on a jurisdiction or a landfill, CalRecycle will measure the program implementation based on statewide waste characterization studies to determine if the target has been met. California will be able to claim statewide success with source-separation and the three-container system and should not back down.	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>“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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.”</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>“With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additional flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections 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)..."</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>"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.</p> <p>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.</p> <p>Therefore, in order to meet the recovery targets specified in statute and the state's ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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.</p>

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			<p>However, the recovery rates established in this regulation should be considered an absolute minimum.”</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be “protected” or provided a “safe-harbor.” The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p> <p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4126	CA Compost Coalition (Edgar, E, CA Compost Coalition)	<p>Article 3 The three-container system alone will probably not be able to meet the target of reducing organic waste by 75%, based upon evaluations of current programs and recent Request for Proposals. Since this is a statewide target - not on a jurisdictional level with proper program implementation or a landfill mandate - other programs are needed (such as high-diversion organic waste processing) in addition to the three-container system, in order to eventually get to 75%. There are hybrid programs that maintain the ability for a facility to process source-separated organics, and in addition process the gray cart with new MSW processing technologies to achieve the 75% recovery rate.</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>“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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.”</p>

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			<p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>“With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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.</p> <p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additionally flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections 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)...”</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>“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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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.</p> <p>Therefore, in order to meet the recovery targets specified in statute and the state’s ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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.”</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be “protected” or provided a “safe-harbor.” The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p> <p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4127	CA Compost Coalition (Edgar, E,	Article 3 Container contamination minimization starts with proper container labeling and education to not fall into the trap of wishful composting. Whereas initial training and auditing is needed for new programs, the number of inspections	During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision

Comment Number	Received From	Question/Comment	Response(s)
	CA Compost Coalition)	and auditing can attenuate over time to reduce the frequency for programs that have reached the lower contamination rate or are already in place with proven results.	<p>to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4128	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 3 Container labeling and color requirements will standardize the industry, especially for new packaging products and compost operators that want to maintain their registered organic input material status. Keep in mind the cart color does not need to be replaced until the end of the useful life of the containers, or prior to 2032, whichever comes first.	Thank you for the comment. The comment is in support of the draft regulations.
4129	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 3 Waivers and exemptions should be granted by CalRecycle for cities with less than 5,000 tons disposed of in 2014, and less than 5,000 people. County areas having census tracts with less than 50 people per square mile can request waivers, but they are only good for up to 2 years. Rural exemptions are good until 2025, or for 5 years after CalRecycle determines that the 50% statewide reduction goals have not been achieved.	<p>CalRecycle added that a special district that provides solid waste collection services or a regional agency can apply for a waiver. The change is necessary to clarify that a special district that provides solid waste collection services and a regional agency would also be eligible to apply for any of the waivers in this section. CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals. CalRecycle agrees that most low-population areas that are granted a waiver by CalRecycle are likely to remain as qualifying low-population areas for longer periods of time; allowing a waiver to be operational for a longer period of time is warranted and will reduce the costs of compliance. CalRecycle has made a language change in response to this comment. After the change was made, commenters were in support that low population waivers are good for five years instead of two.</p>
4130	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 5 It is important to call on the non-local entities to comply with SB 1383.	The comment is in support of the proposed regulations, which require non-local entities to comply with SB 1383.
4131	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 8 Many jurisdictions already have a C&D Ordinance where CalRecycle has provided model ordinances in the past. CalRecycle should supply guidance in the form of model ordinance language.	CalRecycle will provide a model ordinance.
4132	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 10 The CalRecycle Food Waste Prevention and Rescue Grant Program has provided financial incentives and is generating program metrics to further develop these programs. Monitoring these grants, Cal- Recycle should provide model programs and documents for jurisdictions to utilize.	CalRecycle agrees with this comment and intends on providing information about model food recovery programs and operations in California prior to 2022.
4133	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 11 An overarching sustainable organic management plan is needed instead of cobbling the older CoIWMP with EARs and now the new Jurisdiction Compliance Reporting. For the time being, this article is needed to determine 15-year capacity.	Comment noted, CalRecycle recently conducted an analysis of compost and mulch infrastructure and will conduct a progress analysis in mid-2020. Article 11 requires jurisdictions to conduct capacity planning to ensure adequate infrastructure.
4134	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 11 Monitoring these grants, CalRecycle should provide industry metrics to determine edible food recovery capacity.	<p>CalRecycle intends on providing guidance and resources to help jurisdictions identify existing capacity at food recovery organizations and food recovery services, which may include existing surveys that have been developed specifically to help identify current edible food recovery capacity and capacity needs.</p> <p>In addition, CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county.</p>
4135	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 13 An overarching sustainable organic management plan is needed instead of cobbling the older CoIWMP with EARs and Implementation Records, as there is reporting but without a plan.	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.

Comment Number	Received From	Question/Comment	Response(s)
4136	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Article 14 CalRecycle should supply model inspection and enforcement programs, model ordinances and model format for the Implementation Record.	Comment noted. CalRecycle is developing a model ordinance and model franchise agreement.
4137	CA Compost Coalition (Edgar, E, CA Compost Coalition)	Measuring the organic waste recovered from the mixed waste organic collection stream and from the source-separated organic waste collection stream, where one cubic yard sample for each organic waste type after processing per each operating day is being proposed, and would be considered as over regulation and costly. This also rolls over to determining incompatible materials but not remnant organic materials. Whereas, as new and poor performing programs may need a higher frequency of sampling, the frequency of sampling needs to be modified based upon the proven performance of the operating facility, how a new facility operates, and the sources of the waste steam. The same can be said about measuring organic residual removed from the mixed waste organic collection stream, where once a facility shows sustained performance, the frequency of sampling should be far less than being required as daily sampling of one cubic yard.	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
4138	CA Compost Coalition (Edgar, E, CA Compost Coalition)	At landfills and transfer station there may be a loadcheck per day or per week that are random, or more frequent on problematic generators. Loadchecking for every 500 tons can lead to two loadchecks per day for a 1,000 TPD facility, and against intuition, CalRecycle is requiring 2 loadchecks per days for facilities under 500 TPD, and loadchecking for remnant organic material. Alternative frequencies could be established for programs with clean feedstocks.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
4430	CACC (Brown, K Community California Alliance for Community Composting (CACC))	<p>Ensure that “community benefit composting” or “micro-composting” organizations can operate even where a municipality has an exclusive franchise agreement with a waste management company. This can be done by enhancing the phrases used in Article 3 with the new definitions outlined above.</p> <p>“Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using community benefit composting or micro-composting sites.”</p> <p>"Nothing in this section exempts a jurisdiction from complying with the other requirements to promote and provide information to generators about waste prevention, community benefit composting, micro-composting , managing organic</p>	<p>The terms community benefit composting and supplemental on-site compost are not used in the regulation.</p> <p>This comment proposes to add the definitions of ‘Community Benefit Composting’ and ‘Micro-composting’ to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards. No change to the regulatory text is necessary</p>

Comment Number	Received From	Question/Comment	Response(s)
		waste on-site, and other means of recovering organic waste, or any other requirements of this chapter.”	to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste.
4431	CACC (Brown, K Community California Alliance for Community Composting (CACC))	Publish a list of best management practices for community benefit composting and micro-composting. In Title 14, Chapter 3.1, add an amendment that recommends a voluntary self-assessment or voluntary state certification program in an effort to alleviate local regulatory concerns and inconsistencies across state agencies;	CalRecycle staff has noted the comment and will not make any further text changes in response. However, CalRecycle staff will develop tools to assist in the implementation of the regulations.
4432	CACC (Brown, K Community California Alliance for Community Composting (CACC))	Promote/encourage generators in rural jurisdictions that may qualify for “Rural Waivers and Exemptions” from waste collection services under §18984.12 to create rural farm composting cooperatives and supplemented on-site composting programs . This status would allow rural generators to source up to 30% of feedstock from off-site, including green material, agricultural material, agricultural by-product material, herbivore manure, and vegetative food material, alone or in combination to enrich on-site composting, by way of also being exempt from §18988.1(d).	Waivers are limited to specific situations and are designed to ensure that the vast majority of waste is still subject to the organic waste collection requirements. CalRecycle analyzed eliminating waivers in the cost analysis and found that this would increase the cost of compliance without substantially increasing organic waste reduction. Also, the comment about requiring rural areas to compost is outside scope of regulations.
2081	Campbell, Todd; Clean Energy Fuels	<p>We are concerned that the procurement requirements outlined in Article 12 for recovered organic waste products is too prescriptive and could lead to unintentional consequences, including potential RNG market disruptions.</p> <p>Section 18993.1</p> <p>(e) A jurisdiction shall comply with subdivision (a) by one or both of the following:</p> <ol style="list-style-type: none"> (1) Directly procuring recovered organic waste products (2) Requiring through a written contract, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation to of such procurement to the jurisdiction. <p>The issue with the procurement provision under Article 12 is there are only two recovered organic waste products that can be used for compliance.</p> <ol style="list-style-type: none"> (1) Compost (2) Renewable Transportation fuel <p>Nearly all the refuse haulers with NGV fleets in California, and many municipalities with NGV bus fleets, are currently under contract to receive RNG from a supplier. However, these existing contracts and fueling arrangements are at risk should this procurement provision be implemented in its current form. This procurement provision would require those same refuse and transit fleets to only procure RNG for transportation fuel as defined under the scope of the SB 1383 regulations which states:</p> <p>"Renewable Transportation Fuel means fuel derived from renewable gas from organic waste that has been diverted from a landfill and processed at an in-vessel</p>	<p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>In order to be consistent with the organic waste diversion goals of SB 1383, the procurement requirements on jurisdictions must focus on California, landfill-diverted organic waste. As such, only eligible products defined in Section 18982(60) as “recovered organic waste products” may count towards a jurisdiction’s recovered organic waste product procurement target. If existing contracts supply jurisdictions with renewable transportation fuel that meet this definition, then a jurisdiction may count that fuel toward its procurement target. procuring recovered organic waste products made from California, landfill-diverted organic waste. The comment only refers to renewable transportation fuel, but it is important to note that a jurisdiction may procure other recovered organic waste products to fulfill the procurement requirement. CalRecycle has revised section 18993.1 to expand the list of recovered organic waste products to provide more flexibility to jurisdictions for the products they can choose to procure. If a jurisdiction already has an existing RNG contract, the procurement requirements do not require the replacement of the RNG contract. Rather, the jurisdiction may procure other eligible products such as compost or electricity. Each jurisdiction has different needs for recovered organic waste product, and the draft regulations are intended to provide jurisdictions the flexibility to choose products that fit local needs.</p>

Comment Number	Received From	Question/Comment	Response(s)
		digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste"	
2082	Campbell, Todd; Clean Energy Fuels	By limiting the scope of RNG that NGV fleets can procure, these regulations could inadvertently eliminate the competitive market for RNG. California's Low Carbon Fuel Standard has administered a fuel neutral policy that is both fuel and technology agnostic. This fuel neutrality concept has contributed to significant growth in the RNG industry in recent years and is certainly driving future growth as carbon negative RNG is coming to market. NGV fleets should be able to source RNG from all available sources, which will result in the maximum reductions in GHG and short-lived climate pollutant emissions.	A change to the regulatory text is not necessary. A text change is not necessary for the following reason(s): CalRecycle generally supports the procurement of renewable transportation fuels and the Low Carbon Fuel Program; however, in order to be consistent with the organic waste diversion goals of SB 1383, the procurement requirements on jurisdictions must focus on California, landfill-diverted organic waste. As such, only eligible products defined in Section 18982(60) as "recovered organic waste products" may count towards a jurisdiction's recovered organic waste product procurement target.
2083	Campbell, Todd; Clean Energy Fuels	Clean Energy would recommend that CalRecycle Staff re-evaluate the procurement standard of Article 12 and address the potential unintended consequences of limiting the scope of RNG that an NGV fleet can procure. All NGV fleets in California should be able to compete for RNG that yields both the highest carbon emission reduction as well as the highest economic value.	A change to the regulatory text is not necessary. A text change is not necessary for the following reason(s): CalRecycle generally supports the procurement of renewable transportation fuels and the Low Carbon Fuel Program; however, in order to be consistent with the organic waste diversion goals of SB 1383, the procurement requirements on jurisdictions must focus on California, landfill-diverted organic waste. As such, only eligible products defined in Section 18982(60) as "recovered organic waste products" may count towards a jurisdiction's recovered organic waste product procurement target.
2084	Campbell, Todd; Clean Energy Fuels	We appreciate the opportunity to provide these comments and would appreciate the opportunity to collaborate with CalRecycle Staff to address these critical issues to our Industry. We would therefore like to officially request a meeting with staff to discuss this matter in person. We also would encourage and welcome staff reaching out to us directly if staff should have any questions or would like to request any additional information.	CalRecycle appreciates the comments provided and the willingness of stakeholders to engage with CalRecycle during the rulemaking period.
4574	Carlson, J., City of Brentwood	Bioforce - We are looking at a pyrolysis sudden made by the above vendor work a similar website name that you can Google. They have this system at a water water plant on the peninsula. We are considering it for our sewer sludge and maybe food waste and possibly yard waste. They produce a bio char that can be marketed as a soil amendment. Can you check when your appropriate colleagues to give us some feedback on the many aspects of using this technology as such as permitting, meeting diversion requirements and any approvals the state has already provided the company?	This comment is outside of the scope of the proposed regulation.
2020	Carr, Bart; Recycle Smart	My comment pertains to staff's description of draft regulatory requirements for edible food recovery. Specifically, staff described reporting requirements for participating food waste generators. I find these requirements to be excessive and very difficult for local government to enforce. The presenter went quickly through the list of requirements. The two that I found most excessive was the requirement for generators to submit current contracts/agreements with the food collection service(s) they are using and to report weight of donated food items. Local government can document that generators are using collection services without the need for contracts/agreements and the food collection services themselves are best	CalRecycle would like to clarify that recordkeeping and reporting are different. Commercial edible food generators are not required to report information to the jurisdiction. They are required to maintain records, which is critical for enforcement purposes. Without the recordkeeping requirements for commercial edible food generators, jurisdictions will not be able to verify if a commercial edible food generator is complying with SB 1383's commercial edible food generator requirements. Many well-established food recovery organizations and services already provide their donors with some form of receipt of donation that often has the amount of food donated. Many organizations do this to provide their donors with information that will help the donor if they intend on claiming any of the tax incentives offered for food donation.

Comment Number	Received From	Question/Comment	Response(s)
		equipped to record and report the weight of food they collect along with the list of generators they service.	
2033	Carr, Bart; Recycle Smart	Record keeping and reporting are necessary components of measuring progress but excessive use of these activities can distract jurisdiction staff and resources from implementing and operating the actual programs that will divert organic waste. The record keeping and reporting requirements outlined in the hearing presentation is overly complex, prescriptive and will distract from our agency's ability to respond to necessary program requirements of SB1393. RecycleSmart requests that CalRecycle staff determine the very basic reporting needs to establish progress and reduce the inspection, recording, and reporting requirements of the draft regulations. Reducing the level of record keeping and reporting to sensible levels will allow local staff to focus efforts and resources on effective program implementation, management, and education & outreach.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
2034	Carr, Bart; Recycle Smart	The draft regulation includes thirty-nine (39) violations in areas of jurisdiction compliance. The draft regulation includes an extensive list of fines ranging from \$500 to \$10,000 per day. This approach is regressive and will create an environment where jurisdictions will be more concerned with "checking the box" program implementation rather than thoughtful and selective program implementation based on local needs, staffing levels, funding, and resources. RecycleSmart requests that CalRecycle reduce the number of jurisdictional violations and the fines associated with violations. Institute a Good Faith Effort determination for those instances where a jurisdiction has attempted to respond to requirements of the regulations but not met the desired performance standard.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
6020	Chahrour, A., Citizen from El Sobrante	The regs do not adequately allow for community driven solutions to our organic waste problem. Please protect our right to compost our own waste locally in our own communities. Large scale corporate composters will play an important roll in solving this issue, but they should not be allowed to eclipse small scale solutions, or even medium scale solutions.	The terms community benefit composting and supplemental on-site compost are not used in the regulation. This comment proposes to add the definitions of 'Community Benefit Composting' and 'Micro-composting' to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards. No change to the regulatory text is necessary to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste. Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering

Comment Number	Received From	Question/Comment	Response(s)
			organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
6021	Chahrour, A., Citizen from El Sobrante	Rules surrounding hauling, collecting, or size limit communit operations and are driving decentralized operations underground or out of existence.	<p>The terms community benefit composting and supplemental on-site compost are not used in the regulation.</p> <p>This comment proposes to add the definitions of ‘Community Benefit Composting’ and ‘Micro-composting’ to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards. No change to the regulatory text is necessary to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste.</p>
6022	Chahrour, A., Citizen from El Sobrante	Please consider the following advantages that community compost operations offer over large, centralized outfits like Waste Management. Community compost: 1) requires fewer miles and carbon emissions in both materials collection and compost distribution; 2) are smaller scale and therefore more controllable; 3) produce compost with less contamination, and higher nutrient density, and more microorganisms; 4) create significantly less methane and less VOCs than large scale; 5) distribute the negative impacts of air and water quality, rather than centralize these in low -income neighborhoods; 6) create localized economic benefits by keeping the jobs and fertility inour immediate communities; 7) allows the state GHG reduction funds to support people, neighborhoods, and local fertility as opposed to supporting corporate profits.	<p>Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.</p>
6267	Chiarodit, T., County of Santa Barbara	<p>SB 1383 represents a major departure from the regulatory approach chat has already proven to be successful for ocher major environmental initiatives, AB 939 and AB 341. In chose cases, jurisdictions were given programs to implement and measurable goals co achieve. More importantly, there is latitude on the particulars of how jurisdictions meet the mandates.</p> <p>The draft approach is fundamentally different from past successful templates. The requirements are very prescriptive and punitive. Instead of seeking the lowest possible effective dosage of intrusion into local governments and the lives of their businesses and citizens, the approach represents a maximum prescriptive methodology. CalRecycle plans co hire 60 new employees just co implement the new law, which is a stark contrast from the practice whereby most municipal agencies in the state have been crying co do more with less for decades.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
6268	Chiarodit, T., County of Santa Barbara	<p>The Standardized Regulatory Impact Assessment (SRIA) is required to assess Alternative Scenarios to the proposed SB 1383 regulatory text. Both alternatives assume that all of the regulations are enacted as written, except that "Alternative 1" omits the local enforcement requirement and "Alternative 2" is stricter. Neither of these options represent a substantive departure from the draft regulations. In section 6.1.6 on page 45 of the SRIA, "Alternative 1" is rejected because it is claimed, without evidence, that "Historical precedent supports the conclusion" that without local enforcement the organic recycling goals will likely not be met. We believe enforcement does not have to be such an all-or-nothing approach. The County adopted a strategy for AB 939 and SB 341 that combined pricing incentives, requirements on our franchised haulers, and the imposition of a non-compliance surcharge on businesses as a last resort. The model works. This common sense approach to enforcement was not assessed as an alternative scenario, even though we mentioned the hybrid approach in our comments submitted in May of 2018.</p>	<p>Comment noted. The SRIA presents two alternatives. The first alternative considers implementing the regulation without requiring local governments to take enforcement against entities in violation. This assumption is not without evidence. The assumption relies on evidence from existing jurisdiction organic waste recycling programs with enforcement, compared to programs that lack enforcement.</p> <p>CalRecycle modeled the local enforcement provisions (monitoring, noticing processes, and penalties) 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 service. 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 against businesses that fail to obtain service (the state is not authorized to take enforcement against businesses under AB 1826). The vast majority of jurisdictions have chosen not to take enforcement 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.</p> <p>The compliance rates achieved in the jurisdictions that CalRecycle modeled the delegated local enforcement provisions on 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.</p> <p>Comment noted. CalRecycle disagrees that the cost presented in the SRIA, and the subsequent estimates provided in the Appendix to the ISOR, "vastly underestimate the true cost of implementation." In the Appendix, CalRecycle presented a cost sensitivity of three scenarios. Each scenario is based on a projected disposal level. CalRecycle projected cost based on the most conservative projections of disposal (highest estimates of disposal and required recovery of 289 million tons). CalRecycle also provided cost sensitivity for the economic value of recycled commodities and costs for transporting recovered material to market. CalRecycle relied upon the most conservative estimates for each of these sensitivity analyses (the highest estimate of transportation costs and lowest value for recycled commodities). The general comment that CalRecycle understates costs was made by several commenters but failed to specify how costs were underestimated or recommend an alternative method for estimated costs. Regarding comments that cite specific areas where the commenter believes costs are underestimated, those comments are addressed in separate responses.</p>

Comment Number	Received From	Question/Comment	Response(s)
6269	Chiarodit, T., County of Santa Barbara	We believe the draft regulations are overly prescriptive, detailed, and punitive. Ultimately the punitive approach may alienate the partnerships between businesses, citizens and government that are needed for long-term success. Jurisdictions are directed with great specificity on how to do everything, including what colors the containers must be, how outreach and education must be conducted, how to monitor routes for contamination, saddled with many reporting requirements, and expected to adopt 11 pages of fines into local ordinances.	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.
6270	Chiarodit, T., County of Santa Barbara	There are over 80 categories of fines, and each fine has 3 tiers for a total of almost 250 different types of fines. The last fine is emblematic of our overarching concern. Section 18991.5 calls for penalties of up to \$10,000 per day on a "food recovery organization ... that fails to keep records as prescribed in this section." Legislation that contemplates fining the Foodbank or Salvation Army, non-profit organizations that provide critical services to food insecure members of our community, would be problematic for our staff to endorse to the Board of Supervisors.	A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.
6271	Chiarodit, T., County of Santa Barbara	The County of Santa Barbara RRWMD recommends a realistic alternative that has already proven itself as a worthy model for AB 939 and AB 341, which is basically that CalRecycle sets the goals and reporting requirements, and the jurisdiction decides how to accomplish the necessary outcomes. The imposition of the proposed requirements and fines would only be required by CalRecycle only after jurisdictions are given a reasonable amount of time to achieve the stated goals.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6272	Chiarodit, T., County of Santa Barbara	Comments on the SRIA and Statement of Reasons -- 3.3.1.1. Contamination Monitoring: "CalRecycle conducted a survey to estimate haulers' costs for contamination monitoring of organic waste loads at the point of pick up. A hauler already conducting the practice estimated that a bin check took 5 seconds, each customer had 3 bins that needed checking, there were 167,000 customers with bins, bin checks were conducted once a week, and labor cost were \$45 per hour,	The information relied upon to produce the SRIA was noted in the SRIA. The SRIA, and the subsequent Appendix to the ISOR, disclosed CalRecycle's findings regarding the estimated cost. The rulemaking record including all information relied upon for the rulemaking has been available to the public review throughout the rulemaking process. CalRecycle's announcement of comment periods disclosed this fact. The comment period for Appendix A which revised the cost estimates provided in the SRIA, importantly included the following notice:

Comment Number	Received From	Question/Comment	Response(s)
		<p>resulting in a cost of \$1.6 million per year. CalRecycle then used this cost estimate to calculate a per capita cost and extrapolate that statewide, resulting in an annual statewide cost of approximately \$78 million for contamination monitoring by organic waste haulers. The cost of reporting contamination data to jurisdictions was estimated to be 10 percent of contamination monitoring costs, or \$8 million annually."</p> <p>CalRecycle refers to a survey. The reader is only provided with information from "a hauler already conducting" monitoring. We believe the estimate of the time and money involved is systematically undersea red. The hauler apparently has 167,000 customers with 3 bins each. The reader is not told if these are residential or business customers. The term bins is normally used to connote commercial containers but the fact that there are 167,000 of these customers implies chat the routes are residential.</p>	<p>"This Appendix, as well as the entire rulemaking file, including technical documents and all information that provides the basis for the proposed regulation, are available for inspection and copying throughout the rulemaking process.</p> <p>The full text of the regulation (posted October 2, 2019) upon which the cost assessment is based on and the Appendix to the Initial Statement of Reasons are available here: https://www.calrecycle.ca.gov/Laws/Rulemaking/SLCP/</p> <p>It can also be reviewed in person, along with all documents in the rulemaking file including technical documents and all information that provides the basis for the proposed regulation, from 8:00 a.m. and 4:00 p.m. at CalRecycle’s offices at 1001 I Street in Sacramento. Please contact Ashlee Yee at the above-mentioned address if you would like to schedule review of the document in person."</p>
6273	Chiarodit, T., County of Santa Barbara	<p>Comments on the SRIA and Statement of Reasons -- 3.3.1.1. Contamination Monitoring: Container monitoring does not take just 5 seconds. Carts are not aquariums where the contents easily reveal themselves. Bags and materials usually need to be moved and even opened to accurately measure the contents and contamination. Also, the only driver who can check all 3 containers is che first one there on the pickup day, assuming all carts are dumped on the same day. Finally, in order to be useful, the information has co be entered or recorded in some fashion and make its way back to the office. Each of these seeps takes time.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews.</p> <p>These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p>

Comment Number	Received From	Question/Comment	Response(s)
6274	Chiarodit, T., County of Santa Barbara	Comments on the SRIA and Statement of Reasons -- 3.3.1.1. Contamination Monitoring: Lasclly, a driver and a truck cannot operate for \$45 per hour in California. In our community the figure for a truck and driver is closer to \$120 per hour, which is che figure that CalRecycle uses for their own staff cost estimates. The extrapolation to \$78 million in annual costs is vastly understated.	<p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p> <p>As noted in the SRIA, CalRecycle derived this information from a survey with a hauler currently performing contamination monitoring services. The costs for fuel and collection are included in the cost estimates that were provided in Table 3 in the SRIA, and updated in Tables 7 and 8 in Appendix A.</p> <p>The commenter points out that wages in their region (Santa Barbara) are much higher. CalRecycle acknowledges that wages in some regions may be higher, just as wages in other regions will be lower. CalRecycle notes that according to the Bureau of Labor Statistics (BLS) the median hourly wage for refuse and material collectors is \$17.92 per hour. The 90th percentile wage is \$31.74 per hour. BLS further identifies California’s hourly mean wage as \$25.83. CalRecycle’s estimates are reasonable and more conservative than the BLS averages for the state. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6275	Chiarodit, T., County of Santa Barbara	Comments on the SRIA and Statement of Reasons -- 3.3.2. Estimated Impacts for Solid Waste Facilities: "Solid waste facilities and stakeholders were surveyed to obtain estimates on the amount of time needed to conduct various tasks including tracking and compiling data, submitting reports, and receiving training. The amount of time needed for each task was then multiplied by the average estimated hourly wage obtained through surveys (\$30.33/hour)."	<p>Comment noted. For the costs associated with direct requirements placed on local governments (e.g. hours associated enforcement, and oversight), CalRecycle relied upon the hourly rate for CalRecycle’s Solid Waste Enforcement staff for FY 17/18, which is \$120 per hour. The \$30.33 per hour figure was used for waste industry staff and was not used to estimate wages for local government employees. Regarding wages for waste industry staff duties see response to Economic Analysis_2</p>

Comment Number	Received From	Question/Comment	Response(s)
6276	Chiarodit, T., County of Santa Barbara	<p>We believe the \$30.33 per hour figure is low and clearly does not include the benefits and overhead that are necessary to pay employees of local governments.</p> <p>Comments on the SRIA and Statement of Reasons -- 3.3.4.4. Enforcement: " CalRecycle estimates that 320,000 businesses would be subject to inspection by Jurisdictions. Based on information from other enforcement programs (such as tire enforcement) about the number of hours per inspection, CalRecycle then estimated that it would require approximately 700,000 city/county staff hours to perform enforcement activities on these businesses."</p> <p>More backup for these assumptions on the number of businesses and hours of staff time that needs to be spent per business should be provided. Our experience is that businesses require a lot more inspection and handholding than the assumption of a little more than an hour per year. Kitchen staff needs to be trained, educational materials distributed, and the appropriate level of service must be determined and often adjusted over time. Also, even those businesses that do not participate in food collection still require staff time in order to determine their status as it relates to the regulations.</p>	<p>As noted in the SRIA, CalRecycle derived this information from a survey with a hauler currently performing contamination monitoring services. The costs for fuel and collection are included in the cost estimates that were provided in Table 3 in the SRIA, and updated in Tables 7 and 8 in Appendix A.</p> <p>The commenter points out that wages in their region (Santa Barbara) are much higher. CalRecycle acknowledges that wages in some regions may be higher, just as wages in other regions will be lower. CalRecycle notes that according to the Bureau of Labor Statistics (BLS) the median hourly wage for refuse and material collectors is \$17.92 per hour. The 90th percentile wage is \$31.74 per hour. BLS further identifies California's hourly mean wage as \$25.83. CalRecycle's estimates are reasonable and more conservative than the BLS averages for the state.</p>
6277	Chiarodit, T., County of Santa Barbara	<p>Comments on the SRIA and Statement of Reasons --4. 4.4.3.4. Impact of Transportation</p> <p>CalRecycle assumes Vehicle Miles Traveled (VMT) under the proposed regulations will be equal to "business as usual" without the regulation ... "The rationale for this assumption is based on several considerations the number and frequency of heavy vehicle or truck trips to existing landfills, through neighboring communities, could even potentially be reduced ... "</p> <p>This conclusion that VMT are likely to not increase or may even be reduced is not borne out by the experience of any haulers we are aware of who have added extensive organics collection programs. There is no reason for speculation - the pertinent data should be available from haulers that would show the "before organics" and "after organics" differences between the total number of trucks, their VMT or Engine Operating Hours (EOH), fuel use, and the number of drivers. In our experience these metrics will indicate that all of these metrics increase with the addition of organics collection.</p> <p>There was some speculation in the SRIA that businesses could offset the extra VMT and other costs associated with the addition of organics collection by reducing trash service. Again, this is a theory that can be compared to hauler records before and after the initiation of organics collection efforts. In the case of businesses, it should be noted that small carts are often provided for food collection, while their trash is often in the form of large bins. The ability of a customer to offset the extra costs and transportation related to recycling food scraps, which are dense and compact, is not easy. It is not the same as offsetting commercial recycling, which is not generally dense, by decreasing trash service. In an overall sense we believe there will be more containers, trucks, VMT and costs to implement SB 1383 than are being projected in the SRIA.</p>	<p>The SRIA and the Appendix to the ISOR note that a specific increase or decrease in Vehicle Miles Traveled (VMT) could not be projected. This assessment remains true today, as noted in the Final Program Environmental Impact Report for SB 1383 Regulations—Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction:</p> <p>"Decisions by project proponents regarding the choice of compliance options and the precise location of new or modified facilities related to implementation of the proposed regulation cannot be known at this time. Furthermore, due to local planning, political (i.e., the willingness of jurisdictions to address local opposition to the siting of new or expanded facilities), and economic influences, attempting to predict project approvals about the specific location and design of facilities and operations undertaken in response to the proposed regulation would be speculative and infeasible at this stage..."</p> <p>The commenter assumes that absent an explicit calculation of VMTs, CalRecycle has failed to account for potential fuel costs associated with hauling organic material. This assumption is inaccurate. CalRecycle notes that the projected collection costs disclosed in Table 3 of the SRIA, and in Tables 7 and 8 of Appendix to the ISOR, include increased fuel costs associated with recycling.</p> <p>While this is not a direction calculation of VMT this cost does account for the costs associated with increased fuel purchases associated with increased hauling. Additionally, CalRecycle provided a cost sensitivity analysis in the Appendix to the ISOR which estimates a range of transportation costs (including fuel costs). A sensitivity analysis is provided as specific estimates of VMT would be speculative. In the Appendix to the ISOR CalRecycle notes:</p> <p>The collection costs calculated in the original SRIA, and shown in the following Collection and Processing of Organic Waste section, relied upon values derived from Cost Study on Commercial Recycling prepared by HF&H Consulting and Cascadia Consulting Group for CalRecycle. The values in the cost study included fuel costs associated with collecting organic waste as a part of the total cost of collection. In this analysis,</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle has additionally included data available from the cost study to project a range of potential costs associated with transporting finished products (e.g. compost, recycled paper, etc.) to market.</p> <p>While fuel costs were included in the original SRIA, this analysis shows a range of additional potential cost scenarios.</p> <p>The Cost Study on Commercial Recycling provides a statewide weighted average cost per ton for transporting a range of recovered commodities to market. The transportation costs represent the cost of delivering finished product to market. (As noted above, the fuel and transportation costs associated with collection are a part of the collection line-item shown in Collection and Processing of Organic Waste). For each material category, the per ton transportation costs include 1) base costs, 2) fuel costs, and 3) hauling costs.</p> <p>Base costs are defined as the minimum charge for picking up the materials from the processing facility. This represents the cost of loading, unloading, queuing, and a minimum travel distance of 10 miles. The fuel and hauling cost components represent the additional cost per ton per mile beyond the minimum charge. The calculator includes per ton costs for various material categories (e.g. compostables, glass, wood waste, etc.). The transportation costs were applied to the projected tons that would be recovered in each category. The Cost Study on Commercial Recycling, and the O&M costs for compost and AD derived from the SLCP economic assessment, include several similar or duplicative costs associated with collecting material from a facility. This was controlled for in the following low and medium transportation costs summaries. For each sensitivity analysis for transportation costs, slight variations were made to the calculator." (emphasis added).</p>
6278	Chiarodit, T., County of Santa Barbara	<p>5. Comment of Statement of Reasons "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 the lid is entirely gray or black in color. In order 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 2032." The claim that standardizing container colors will increase diversion is not documented, and the idea that even the trash container needs a uniform color scheme statewide is speculative. Our county is fine with the color scheme for all materials except trash. Should we have to change the trash carts there will be costs for replacement that are not insignificant. The rigid plastic is not recyclable at this time, so waste will be created. Given that there is no evidence that the color of the trash cart will increase diversion, the net impact will be to decrease diversion by forcing the "early retirement" of rigid plastic that is not currently recyclable. In addition to increasing trash disposal, the biggest impact will be the negative perception throughout the community that big government is imposing its will on our local citizenry without due cause.</p>	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container.</p>

Comment Number	Received From	Question/Comment	Response(s)
6381	Chiarodit, T., Santa Barbara	The draft regulations contain 11 pages of fines that local jurisdictions are expected to codify. Since each fine has 3 levels of severity, there are nearly 250 new penalties associated with SB 1383. What is the closest template or model that exists for enforcement on a local level for this wide range of punitive measures? We were told that the state's Waste Tire penalties, and ordinances from Alameda County and San Francisco informed the draft penalty section, but really the magnitude of fines seems without precedent. Are we missing something?	CalRecycle has revised section 18997.2 in response to this comment. The penalty table for penalties imposed by the jurisdiction has been removed. A jurisdiction shall impose penalties for violations consistent with the graduated penalty amounts authorized in Sections 53069.4, 25132 and 36900 of the Government Code which is outlined in Section 18997.2(a).
6382	Chiarodit, T., Santa Barbara	A recent speaker questioned the methane measurements science and was told that it was not relevant since SB 1383 dictates the reduction of food and organics in the landfill. Agreed. However, the methane measurements are very important when it comes to writing an Informed Regulatory Impact Assessment, which assumes certain benefits based on projected methane emission reduction. The methane measurements are also relevant to the EIR, and to an overall cost-benefit analysis of the proposed legislation.	Comment noted. Comments regarding the EIR are more appropriate for the CEQA process.
4021	Clark, M LA County Solid Waste Mgt Committee	the Task Force is very concerned about the approach that CalRecycle has selected, which places a tremendous burden and responsibility on counties and cities (more than any other stakeholder group, including, but not limited to, state agencies, public and private colleges and universities, school districts, local education agencies and non-local entities as defined in Article 1, Section 18982 (a) (40) and (42), respectively, etc.), while relying on extremely prescriptive requirements, excessive "bean counting" and reporting, and requiring counties and cities to impose steep penalties on residents and businesses.State law, Section 40001(a) of the Public Resources Code (PRC), declares that "the responsibility for solid waste management is a shared responsibility between the state and local governments (emphasis added)." Furthermore, SB 1383 recognizes the shared responsibility "the waste sector, state government, and local governments" have in achieving the organic waste reduction goals for 2020 and 2025, and thus requires CalRecycle to analyze the progress made by the three sectors, in that order, including "commitment of state funding", in achieving the said goals {PRC Section 42653. (a)} (emphasis added). However, under the proposed regulations, the responsibility weighs much more heavily on counties and cities, including programmatic and penalty requirements, than on state agencies, school districts, and special districts, local education agencies, and non-local entities (as an example, see provisions of Articles 14 and 15 of the proposed regulations). For example, SB 1383 notes that the California Constitution requires the state to "reimburse local agencies and school districts for certain costs mandated by the state (see SB 1383, preamble). SB 1383, Section 7 further states that "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act..." While both local agencies and school districts	Comment noted. The commenter is expressing an opinion on the overall scope and model of the regulations. CalRecycle has determined the regulatory model used is necessary to achieve the ambitious organic waste diversion goals in the statute that were mandated by the Legislature.

Comment Number	Received From	Question/Comment	Response(s)
		<p>may have authority to levy service charges, fees, or assessments, the proposed regulations disproportionately place the responsibility on counties and cities, even though they may encounter as much difficulty in raising charges, fees, or assessments as school districts. State agencies similarly are held to a much lower standard than counties and cities, while not being subject to a measurable penalty. Therefore, the Task Force strongly recommends the proposed regulations be revised to provide for a more equitable distribution of the responsibility for achieving the disposal reduction goals among all sectors, including industry, state government, school districts, public and private</p>	
4022	Clark, M LA County Solid Waste Mgt Committee	<p>jurisdictions to impose civil (monetary) penalties on residential or commercial organic waste generators for non-compliance.</p> <p>The proposed regulations (Article 16, Section 18997.1) require jurisdictions to “adopt ordinance(s) or enforceable mechanisms to impose penalties that are equivalent or stricter than those amounts in Section 18997.2...” (emphasis added). In addition, Section 18997.2. Penalty Amounts, requires: “(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b).” (emphasis added).</p> <p>While SB 1383 grants CalRecycle the authority to “require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction,” this authority does not extend to the imposition of penalties (emphasis added). SB 1383 only provides that CalRecycle “may authorize local jurisdictions to impose penalties on generators for noncompliance” {see Section 42652.5. (a)(1) of the Public Resources Code (PRC)} (emphasis added).</p> <p>In requiring counties and cities to impose steep civil penalties (\$500 per day per violation) on residents and businesses for non-compliance with each requirement of the regulations, CalRecycle would exceed its authority under the law. Such authority is vested on local governmental agencies by PRC Section 40059, which states that, “each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.” (emphasis added).</p> <p>Therefore, the Task Force strongly recommends the proposed regulations be revised to delete any and all provisions that require counties and cities to impose civil (monetary) penalties on their residents or businesses. The language may be revised pursuant to PRC Section 42652.5 (a)(1) to authorize counties and cities to do so, as they deem appropriate (emphasis added).</p>	<p>The statute authorizes CalRecycle to include jurisdictional penalties on generators as part of the rulemaking and enforcement is necessary to accomplish the goals of the statute to achieve the organic waste diversion targets. Regarding Public Resources Code Section 40059, there are two phrases that must be taken into account in its application to SB 1383.</p> <p>First, Public Resources Code Section 40059 applies to aspects of solid waste handling “which are of local concern.” The organic waste diversion mandates in SB 1383 are of statewide application and statewide concern. As described in other responses to comments, CalRecycle was granted broad statutory authority by the Legislature to create rules designed to implement these statewide mandates and ensure the statutory organic waste diversion requirements are met. To the extent there are provisions in the rulemaking that touch on aspects of local solid waste handling, these are regarding matters of statewide concern that have been determined by CalRecycle to be necessary to achieve the goals of SB 1383.</p> <p>Second, Public Resources Code Section 40059 contains the introductory phrase, “Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern...” This phrase contemplates that other laws exist that may affect local solid waste handling and that the mere existence of those laws does not automatically preempt local governments from regulating the enumerated subject areas. It was designed to make clear that the state was not preempting the entire field of solid waste handling and that local jurisdictions were still allowed to regulate in certain areas.</p> <p>As such, Public Resources Code 40059 is not a limitation on CalRecycle from regulating aspects of solid waste handling to the extent they are of statewide concern.</p>
4023	Clark, M LA County Solid Waste Mgt Committee	<p>SB 1383 does not preclude CalRecycle from considering county or city “good faith efforts” to comply with the regulations.</p>	<p>The "good faith effort" compliance standard was specifically removed from the SB 1383 bill when it moved through the Legislative process, indicating a legislative intent that this compliance standard was not to be used.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>CalRecycle’s Statutory Background and Primary Regulatory Policies document states, in part, that “Legislative guidance directs CalRecycle not to...utilize the “Good Faith Effort” compliance model specified in PRC Section 41825.” This is inaccurate and contrary to the language of SB 1383.</p> <p>Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (emphasis added).</p> <p>Since PRC Section 41825 establishes the process to determine whether a jurisdiction has made a “good faith effort” to comply with the law, it is clear that CalRecycle is required to consider “good faith effort” in making its determination of a jurisdiction’s progress. Therefore, the proposed regulations need to be revised to provide for this provision.</p>	
4024	Clark, M LA County Solid Waste Mgt Committee	<p>As proposed, the definition of “organic” is extremely broad and basically includes plastics. The inclusion of plastic does not fit into the concept of organic collection and processing. This definition should be narrowed to prevent confusion, be consistent with state law, and should not include textiles, carpets, fiber, biosolids, digestate, or sludges. Textiles, carpets, and any other new materials should not be considered “organic” material unless their greenhouse gas (GHG) potential is analyzed. See the “Specific Comments” section of this letter, Article 1, Section 18982 (a) (46), for further comments and recommendations.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
4025	Clark, M LA County Solid Waste Mgt Committee	<p>The proposed regulations require local governments to purchase recovered/recycled organic waste products targets set by CalRecycle. While we cannot see any statutory procurement requirement within the provisions of SB 1383, the implementation of these requirements will result in substantial additional costs to local governments over and above the costs jurisdictions already anticipate to incur for complying with the extensive programmatic requirements of the proposed regulations. Therefore, the Task Force respectfully request that CalRecycle instead work to develop markets for recovered/recycled organic waste products.</p>	<p>The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”. It should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
4026	Clark, M LA County Solid Waste Mgt Committee	Further, the additional costs that will result from complying with the proposed regulations’ procurement requirements represent an unfunded state mandate under California Constitution, Article XIII B, Section 6 (a) since the proposed regulations would impose a new program on local governments and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>source. CalRecycle should not rely on the fee authority granted to local governments in SB 1383. Any fee that a city, a county or city and county attempts to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even if a fee were to survive scrutiny under Proposition 26, it is questionable whether a jurisdiction would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Proposition 218). This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, the Task Force requests that the proposed procurement requirements be addressed in a separate regulatory proceeding.</p>	<p>Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>Regarding “substantial additional costs,” a change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”.</p> <p>CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p>
4027	Clark, M LA County Solid Waste Mgt Committee	<p>The Task Force strongly believes that jurisdictions and regulated agencies would like to see the proposed regulations to be less prescriptive, more flexible, and less punitive, as well as to include reasonable timeframes for compliance. At the same time CalRecycle should focus state efforts on market development, technical</p>	<p>A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”.</p>

Comment Number	Received From	Question/Comment	Response(s)
		support, including efforts to investigate emerging technologies leading to the development of new facilities and products, and funding for infrastructure.	CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022. Finally, the regulations provide delayed implementation for rural jurisdictions. Several commenters recommended that the regulations phase-in the procurement requirements from high population to low population areas. The delayed implementation for rural areas (low population areas) was added in response to this request.
4028	Clark, M LA County Solid Waste Mgt Committee	"Special Districts" should be defined in the regulations. Furthermore, the regulations should clarify whether special districts are considered "jurisdictions" or "non-local entities," since "special districts" are included in both definitions.	In response to this comment, CalRecycle defined a "special district" as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a "special district that provides solid waste collection services" is a jurisdiction. Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction's regulations related to solid waste. The definition of "non- local entity," lists special districts as an example of a type of entity that could be a "non- local entity" but it does not definitively state that all special districts are non-local entities. Any special district that is a "jurisdiction" and also a "non-local entity" generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3.
4029	Clark, M LA County Solid Waste Mgt Committee	The proposed definition of "Food recovery organization" as written includes temporary food facilities, as defined under Section 113842 of the Health and Safety Code. According to the Health and Safety Code (H&SC): Nonprofit charitable temporary food facilities" means either one of the following: (a) A temporary food facility, as defined in Section 113930 of the H&SC, that is conducted by a nonprofit charitable organization, as defined in Section 113841 of the H&SC. (b) An established club or organization of students that operates under the authorization of a school or other educational facility. Should these clubs and organization be included, local jurisdictions would have to: 1) Annually identify all clubs or organizations at schools and other educational facilities (which are considered non-local entities) operating within the jurisdiction	Removing "nonprofit charitable temporary food facilities" from the definition of "food recovery organization" was not necessary because these entities are a type of food recovery organization that should be recognized and also can help California achieve its 20% edible food recovery goal. However, CalRecycle recognizes that that assessing edible food recovery capacity at nonprofit charitable temporary food facilities could be onerous given that these entities include clubs or organizations of students that operate under the authorization of a school or other educational facility. To address this concern, CalRecycle revised section 18992.2. (a)(2) so that jurisdictions will not be required to assess capacity at nonprofit charitable temporary food facilities located within the county and jurisdictions within the county. This revision was necessary to help jurisdictions comply with the edible food recovery capacity planning requirements specified in Section 18992.2.

Comment Number	Received From	Question/Comment	Response(s)
		<p>and maintain these school clubs and organizations on the jurisdiction’s website and outreach materials as potential temporary food facilities for use by commercial edible food generators - pursuant with Section 18985.2 of the proposed regulations.</p> <p>2) Assess the edible food recovery of school clubs and organizations which are involved in food recovery activities - pursuant to Section 18991.2(a)(2) of the proposed regulations.</p> <p>The Task Force recommends that nonprofit charitable temporary food facilities be excluded from the requirements listed under Section 18985.2(a)(1) and Section 18991.2(a)(2) of the proposed regulations, as they do not contribute greatly to existing food recovery capacity, and it would be an undue burden to both jurisdictions and student organizations to have to comply with these regulations.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(25) “Food recovery organization” means an entity that primarily engages in the collection or receipt of edible food from edible food generators and distributes that edible food to the public for consumption, including, but not limited to:</p> <ul style="list-style-type: none"> (A) A food bank as defined in Section 113783 of the Health and Safety Code; (B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, (C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code. 	<p>Regarding the comment pertaining to Section 18985.2. Edible Food Recovery Education and Outreach (a)(1). The commenter has misinterpreted the requirement to develop a list of food recovery organizations and services operating within the jurisdiction. To clarify, the requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and services operating within the jurisdiction, just that “a list” be created, maintained on the jurisdiction’s website, and updated annually.</p> <p>It is at the discretion of the jurisdiction to determine the food recovery organizations and services that they believe should be included on the list. Please note that the list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with pursuant to Section 18991.3(b), and thereby 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.</p> <p>Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing recovered edible food on a routine basis.</p>
4030	Clark, M LA County Solid Waste Mgt Committee	<p>The definition of “organic waste” as specified in the proposed regulations is extremely broad and means “solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.” This highly broad definition seems to state that organic waste includes any type of waste other than “inert waste.” It may include solid waste, medical waste, non-inert hazardous waste, etc. The scope of this proposed definition can be reduced by limiting it to “organic solid waste.” Furthermore, the definition in the regulations is inconsistent with the definition of “organic waste” in Section 42649.8(c) of the Public Resources Code (PRC), as established by Assembly Bill 1826 (2014). AB 1826 defines “organic waste” as “food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.” The intention of SB 1383 is to establish a statewide goal to reduce the landfill disposal of the types of organic waste listed under AB 1826. Therefore, the definition of organic waste in the proposed regulations should be revised to be consistent with the definition in AB 1826. Also see General Comment No. 3.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(46) <u>“Organic waste” or “organic solid waste” means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste,</u></p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p><u>organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.</u></p>	
4031	Clark, M LA County Solid Waste Mgt Committee	<p>The definition of “renewable transportation fuel” without any justifiable reason and/or scientifically supported analysis, limits it to fuel derived from renewable gas through in-vessel digestion of organic waste only. The regulations should expand the definition of “renewable transportation fuel” to include fuel derived from renewable gas from other technologies, including thermal conversion technologies such as gasification and pyrolysis, as well methane gas generated from municipal solid waste landfills since it is biogenic in origin.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (62) “Renewable transportation fuel” means fuel derived from renewable gas generated from organic waste that has been diverted from a landfill, and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, a biomass conversion facility that is permitted or otherwise authorized by Division 30 of the Public Resources Code to recycle organic waste, or any other process or technology that is subsequently deemed under section 18983.2 to constitute a reduction in landfill disposal. 	<p>Regarding expanding “renewable gas” to include gas from technologies such as gasification and pyrolysis, CalRecycle disagrees with this approach. These technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.</p> <p>Regarding landfill gas, the SB 1383 mandate is to recover organic waste that would be disposed. Generating gas in municipal solid waste landfills requires disposal of organic waste in landfills; therefore, it is inconsistent with statute to incentivize or mandate activities that do not reduce landfill disposal.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>
4032	Clark, M LA County Solid Waste Mgt Committee	<p>The term “entity,” which is referenced multiple times in the regulations, should be defined in the regulations.</p>	<p>CalRecycle did not include a definition for “entity” because it is using the term in the regulations consistent with the commonly understood dictionary definition of the word as opposed to a specialized term requiring regulatory clarification. The term “entity” is used thousands of times in various state statutes without definition for the same reason.</p> <p>Regarding commenter’s concern regarding use of the phrase “...and other entities,” this phrase appears almost exclusively in the “General Provisions” portion of the regulations at Sections 18981.1 and 18981.2 and is intended to be a catch-all term for entities that are subject to explicit regulation under this rulemaking (eg. food recovery services and organizations) that are not otherwise listed in those sections. In Section 18981.2, the phrase is further limited to other entities “subject to the jurisdiction’s authority...” This is intended to exclude certain entities like state agencies, federal facilities, special agencies and other such entities that are not subject to a local jurisdiction’s regulatory authority. See the definition of “non-local entity” in Section 18982(a)(42).</p> <p>CalRecycle agrees that any inspections are subject to Fourth Amendment requirements. CalRecycle agrees that a jurisdiction is not obligated to undertake inspections or other enforcement action against entities outside of their regulatory jurisdiction. Inspection and enforcement against a “non-local entity,” as appropriate, would be undertaken by CalRecycle</p>
4033	Clark, M LA County Solid Waste Mgt Committee	<p>The term “regional agency,” which is referenced in Sections 18981.2 (b) (2), 18987.2 (a) (1), 18992.1 (a), 18992.1 (b), 18992.2 (a), and 18992.3 (a), should be defined in the regulations.</p>	<p>Regional agencies are defined in Public Resources Code Section 40181. Per Public Resources Code Section 40100, that definition extends to regulations adopted under Division 30 of the Public Resources Code.</p>

Comment Number	Received From	Question/Comment	Response(s)
4034	Clark, M LA County Solid Waste Mgt Committee	The term non-organic waste, which is referenced in Sections 18982 (55) (A), 18984.1 (a) (1), 18984.1 (a) (2), 18984.1 (a) (3), 18984.2 (a) (2), 18984.2 (a) (3), 18984.9 (b) (1), 18986.1 (b), and 18986.2 (b), should be defined in the regulations.	Comment noted. "Non-organic" waste is implicitly anything that is not included in the definition of "organic waste" and a separate definition is unnecessary.
4035	Clark, M LA County Solid Waste Mgt Committee	<p>The definition of "jurisdiction" has been modified in the proposed regulations to include "special districts that provide solid waste handling services." No definition of solid waste handling is included in the proposed regulations; however, this phrase is defined in two sections of the Public Resources Code, (1) Section 40195 "the collection, transportation, storage, transfer, or processing of solid wastes", and (2) Section 49505 "the collection, transportation, storage, transfer, or processing of solid waste for residential, commercial, institutional, or industrial users or customers." This has created a problem in that some special districts provide some of those services but not all of them. Therefore, the Task Force requests that the proposed regulations be modified to only apply the requirements intended for a "jurisdiction" (as defined in the PRC Section 40145). As such the proposed change in the definition of jurisdiction is overly broad and should be narrowed to be consistent with the Public Resources Code definition of "jurisdiction" contained in Section 40145. In general, the Task Force recommends that CalRecycle keeps the definitions consistent with those in the Public Resources Code.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (36) "Jurisdiction" means a city, or county or a city and county or a special district that provides solid waste handling services. A city, county or county and city may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, or city and county shall remain ultimately responsible for compliance. 	Thank you for the comment. CalRecycle revised the definition of 'jurisdiction' in Section 18982(a)(36) because the original term "handling" as used in the definition is overly broad. This change is necessary to provide clarity.
4036	Clark, M LA County Solid Waste Mgt Committee	<p>In addition to anaerobic digestion and composting, biosolids can also be processed through gasification. Biosolids that are gasified produce biochar, an organic soil amendment. The Task Force recommends that CalRecycle include the land application of biochar produced from biosolids as a reduction of landfill disposal. The California Energy Commission's 2017 Integrated Energy Policy Report (2017 IEPR), published on April 16, 2018, states that the gasification of biosolids to produce biochar is a revenue source to promote the development of renewable natural gas (RNG) projects, which will be needed if jurisdictions are to meet the requirements to procure RNG transportation fuel per Section 18993.1(f)(2) of the proposed regulations.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (b) (6) Land application, as defined in Section 17852(a)(24.5), of this division subject to the following conditions: (A) Green waste or green material shall meet the definition of Section 17852(a)(21) and shall have been processed at a solid waste facility, as defined by Section 40194 of the Public Resources Code. (B) Biosolids shall: 	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>1. Have undergone anaerobic digestion or composting, any of the pathogen treatment processes as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, or gasification, as defined in Section 40117 of the Public Resources Code, to produce biochar, as defined in Section 14513.5 of the Food and Agriculture Code, and,</p> <p>2. Meet the requirements in Section 17852(a)(24.5)(B)(6) of this division for beneficial reuse of biosolids.</p> <p>(C) Digestate shall:</p> <p>1. Have been anaerobically digested at an in-vessel digestion operation or facility, as described in 14 CCR sections 17896.8 through 17896.13; and, 2. Meet the land application requirements described in 14 CCR Section 17852(a)(24.5)(A).</p> <p>3. Have obtained applicable approvals from the State and/or Regional Water Quality Control Board requirements.</p>	
4037	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): SB 1383, Section 42652 of the PRC reads as follows: “The Legislature finds and declares all of the following: “(a) The organic waste disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01. (b) Achieving organic waste disposal reduction targets require significant investment to develop organics recycling capacity. (c) More robust state and local funding mechanisms are needed to support the expansion of organics recycling capacity.” Based on the foregoing, it is clear that the Legislature and the Governor, as a part of the SB 1383 enactment, emphasized the need for development of alternative technology facilities beyond composting and anaerobic digestion technologies/facilities, upon which CalRecycle has heavily relied, while not placing sufficient emphasis on development of alternative technologies and even subjecting them to heavily restrictive standards that other methods and processes are not subjected to (such as land application). In doing so, the state has created a significant obstacle to development of facilities utilizing these technologies without a clear and scientifically substantiated justification. For example, Section 18983.2 states “To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department and/or CARB’s Executive Office shall compare the metric tons carbon dioxide equivalent (MTCO_{2e}) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste” (emphasis added). To be consistent with requirements of PRC Section 42652 and technically correct, the analysis should be made in comparison to “landfilling” and not “composting.” The Task Force would like to emphasize that the SB 1383 mandates reduction of organic waste disposal in landfills and not any other type of facilities such as those utilizing conversion technology, (emphasis added).</p>	<p>Several commenters suggested using avoided landfill emissions as the benchmark in the determination of processes or technologies that constitute a reduction in landfill disposal. Although this proposal might increase diversion of organics from landfills, it would not achieve the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 or the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO_{2e} per short ton organic waste was set to ensure emission reductions for any new process or technology are comparable to the emission reductions necessary to achieve the strategy’s emission reduction goal of 4 MMTCO_{2e} for this sector.</p>

Comment Number	Received From	Question/Comment	Response(s)
4038	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): This section does not specify obligations on the Department or the California Air Resources Board (CARB) to review the applications in a timely manner. The regulations must require the Department and CARB to make a determination in a realistic timeframe to facilitate the development of organics recycling infrastructure.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(2) The Department shall consult with CARB’s Executive Officer within 30 days of receiving the application to evaluate if the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation, and whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal. The Department shall provide a response to the applicant within 90 days of receiving the application whether the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation and, in the response, request additional information, if needed. The Department shall make a determination whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal, and inform the applicant of the decision within 180 days of receiving the application.</p>	<p>The commenters request greater certainty as to when to expect CARB and/or CalRecycle will determine whether a proposed process or technology constitutes a reduction in landfill disposal. CalRecycle added clarification in the regulation, including that CalRecycle would let applicants know within 30 days of receipt of the application whether or not CalRecycle needs more information to process the application, and that CalRecycle will inform the applicant within 180 days after they have all needed information as to whether or not the process or technology is deemed to count as a reduction in landfill disposal. This timeline will provide applicants with a reasonable timeline for receiving determinations on proposed processes or technologies.</p>
4039	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): CalRecycle and CARB have joint authority over the verified technology determination. As the SB 1383 regulation text currently reads, either CalRecycle, CARB, or both can make this determination. The roles must be better defined to avoid delaying the technology verification process and to facilitate the development of new infrastructure.</p>	<p>CalRecycle modified the text to clarify that CalRecycle, as the entity overseeing implementation of this regulation, makes the final determination of whether a process or technology constitutes a reduction in landfill disposal. This change is needed to clarify roles.</p>
4040	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): Section 18983.2 specifies the process used to determine if operations, facilities or activities not expressly identified in the regulation shall be deemed to constitute a reduction of landfill disposal. Once this determination is made, it would be reasonable for comparable processes or technologies to be similarly deemed to constitute a reduction of landfill disposal. Section 18983.2(c) appears to provide this opportunity. The regulations must clarify if this is the intent and the section must be expanded to more specifically outline the streamlined approach that would be followed. To facilitate infrastructure development, future applicants should not be required to repeat the verification process for an already-approved process.</p>	<p>The commenter is correct. Subdivision (c) is intended to avoid duplicative effort by allowing a mechanism to show a proposed activity is identical or equivalent to a proposed activity the Department has determined pursuant to Section 18983.2(a) results in a reduction in landfill disposal.</p>
4041	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): The regulations are prescriptive in the requirements for organic waste collection services provided by the jurisdictions. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (emphasis added). Therefore, the Task</p>	<p>A change to the regulatory text is not necessary. When the Legislature enacted the Recycling of Commercial Waste (“MCR”) law (PRC Section 41649.3(h) and (i) and the Recycling of Organic Waste (“MORe) law(PRC Section 42649.82(g) and (h) both statutes expressly required that the Department evaluate these programs using the “good faith effort” standard contained in PRC section 41825. The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Force recommends that CalRecycle revise the regulations to incorporate provisions for jurisdictions demonstrating a “good faith effort” to comply.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) This article specifies the minimum recommended standards for organic waste collection services provided by jurisdictions, outlines efforts jurisdictions must demonstrate a good faith effort to engage in to reduce container contamination, delineates recommended container color and labeling requirements, specifies criteria for rural jurisdictions to be exempt from specified requirements of this section and criteria for jurisdictions to waive requirements for specified generators. This article additionally specifies associated recordkeeping requirements for these standards.</p>	<p>must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p> <p>Further, Making a good faith effort to achieve a unique jurisdiction target that fluctuates with annual generation is not compatible with the SB 1383 mandate to achieve a specific statewide organic waste disposal cap of 5.6 million tons on and after 2025. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
4042	Clark, M LA County Solid Waste Mgt Committee	<p>Pursuant to SB 1383, Subdivision 45652 of the PRC, the Legislature, among other things, finds and declares that “(a) The organic waste disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01.”</p> <p>The “simplest” way to measure the reduction of organic waste disposal is to quantify the tonnages of organic waste being diverted. As such, the Task Force questions the prescriptive/mandatory collection services, including the required containers and their colors, which would be mandated by the proposed regulations, are unnecessarily onerous and would impose a significant cost to counties, cities, and their residents and businesses. The Task Force strongly recommends that CalRecycle conduct and make available a detailed cost benefit analysis of the various alternative approaches to the mandatory organic waste collection service requirements considered. The Task Force also believes that said requirements are inconsistent with the state law, PRC Section 40059.</p> <p>The Task Force respectfully requests CalRecycle to address these issues in the next version of the proposed regulations.</p>	<p>Comment noted. The collection services and container labeling requirements are necessary to achieve diversion. Measurement alone will not be sufficient to move the state towards the statutory diversion targets.</p>
4043	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): The Task Force is concerned about the requirement (a)(3)(D) which states that the jurisdiction must provide the geographical areas served by the haulers, along with routes serviced, or a list of addresses served. Jurisdictions, through their franchise agreements/contracts, have committed to protecting proprietary information which may result in an economic disadvantage should the information be disclosed to haulers' competitors. The Task Force recommends order to protect the hauler’s proprietary information.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) A jurisdiction shall include the following information and documents in the Implementation Record required by Section 18995.2 of this chapter:</p> <ol style="list-style-type: none"> (1) A description of which collection method(s) it will use to comply with this article. 	<p>The Public Records Act includes provisions to protect confidential, proprietary and/or trade secret information and the regulations includes provisions reflecting those protections. A change to the regulatory language is not necessary.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(2) The geographical area for each collection method (3) If the jurisdiction is using a service that requires the contents of containers provided by the jurisdiction to be transported to a high diversion organic waste processing facility, the jurisdiction shall at a minimum: (A) List all high diversion organic waste processing facilities used by the jurisdiction. (B) Include copies of, quarterly and annual average mixed waste organic content recovery rates, for each of those facilities, as defined in Section 18984.3. (C) List all approved haulers in the jurisdiction that are allowed to take organic waste to the jurisdiction's identified high diversion organic waste processing facility or facilities. (D) The geographical area the hauler(s) serves, or the routes serviced, or a list of addresses served.</p>	
4044	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): The regulations require jurisdictions to monitor containers and conduct route reviews as part of the container contamination minimization protocol. Furthermore, Section 18997.3 Base Table 1 lists monetary penalties for jurisdictions not implementing a container contamination minimization protocol. However, Section 17409.5.7.(c), Section 17409.5.11(b)(4), Section 17867(a)(4)(E), Section 17896.25.1(d), and Section 20901(d) state that the enforcement agency (EA) may approve an alternative frequency for load checking at a facility if the facility receives waste from jurisdictions that are monitoring containers using the container contamination minimization described in Section 18984.5. This implies that a jurisdictions' implementation of the container contamination minimization protocol is not required. CalRecycle should clarify in the regulations whether jurisdictions are required to implement a container contamination minimization protocol.</p>	<p>Section 18984.5 specifies that jurisdictions must conduct container contamination minimization and provides two options. Also, in Article 17 it specifies that jurisdictions must conduct container contamination minimization as prescribed in Section 18984.5(c) when a jurisdiction is implementing a performance-based system.</p>
4045	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): This section indicates that if a jurisdiction is utilizing a two or three-container collection system, all collection routes must be reviewed quarterly for prohibited container contaminants. Due to the size of a jurisdiction, such as the County of Los Angeles geographical jurisdiction and the number of routes presently served, this presents an incredible burden on the jurisdiction's labor and financial resources. The Task Force recommends reducing the monitoring frequency requirement to something that jurisdictions may more realistically meet. The Task Force recommends shifting this requirement to not less than annually with statistically representative sampling. The Task Force believes similar results can be derived if certain routes are sampled by specific geographic regions (such as community) or population density.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) A jurisdiction shall conduct a route review for prohibited container contaminants on randomly selected containers in a manner that results in all collection routes being reviewed quarterly annually.</p>	<p>Thank you for the comment. CalRecycle made the proposed changes, including changing from quarterly to annually. Also, jurisdictions may set what the routes are and the number of random containers to select, which is the least costly and burdensome approach. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4046	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): The Task Force recommends that this section be revised to specify that residential property owners do not have to arrange for access to individual residential unit, but only to common areas where solid waste and recycling containers are stored or may be stored. Inspectors cannot enter a private property without a Court order. However, inspections of residential containers can be made once the containers are placed in the designated area for collection.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) Property and business owners shall provide or arrange for access to their properties, excluding the interior of each residential unit within the property, during all inspections conducted pursuant to Article 14 of this chapter (commencing with Section 18995). Residential containers can be inspected if they are placed in the designated area for collection.</p>	<p>CalRecycle revised Section 18984.10(c) in response to this comment to specify that residential property owners do not have to arrange for access to individual residential unit.</p>
4047	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s):</p> <p>This section does not recognize the good faith efforts of a jurisdiction to comply with the provisions of this chapter but that is unable to fully comply due to circumstances beyond its control. Provisions need to be provided for good faith efforts.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) The Department may grant waivers and/or extensions to any generator, hauler, or jurisdiction that has made good faith efforts to comply with the requirements of this article but has been unable to identify a facility with sufficient capacity to process the materials.</p>	<p>Section 18996.2 includes all circumstances outside of a jurisdiction's control, including the inability to identify a facility with sufficient capacity to process the materials. The regulations require a jurisdiction to demonstrate that extenuating circumstances exist and that it has made a "substantial effort" which means that it has taken all practicable actions to comply.</p>
4048	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): Chapter 3.1, Article 3, Section 17867 and Chapter 3.2, Article 3, Section 17867 of the proposed regulations state that material subject to a quarantine on movement issued by a county agricultural commissioner is considered incompatible material rather than organic waste. The regulations should clarify whether quarantined green waste will be exempt from the landfill disposal reduction requirements for organic waste. If quarantined green waste is required to be disposed in landfill for public health and safety reasons, the regulations should clarify that the disposed tonnage will not count against the 50 percent and 75 percent landfill disposal reduction targets.</p>	<p>Thank you for the comment. A change is not necessary because this was added in previously.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>In addition, CalRecycle should grant a waiver or exemption for material subject to a quarantine on movement issued by a county agricultural commissioner. Once this quarantined material is collected, it could be transferred to a facility outside of the quarantined zone contaminating other non-quarantined organic waste and spread disease, pests, or harmful bacteria or microorganisms. Additionally, the regulations should also provide a definition for “quarantined material.”</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) (e) Quarantined Material</p> <p>(1) The Department shall grant an exemption for organic waste collection, as specified in this chapter, for material subject to a quarantine on movement issued by a county agricultural commissioner. A jurisdiction may dispose of organic material if it is subject to a quarantine on movement issued by a county agricultural commissioner.</p>	
4049	Clark, M LA County Solid Waste Mgt Committee	<p>Please clarify if the definition of “organic waste” that is required to be separated either at the source or at a high-diversion materials recovery facility and diverted from landfill includes organic waste collected from routine non-emergency debris and catch basin cleanouts. The Task Force recommends that organic waste collected from debris and catch basin cleanouts be excluded from the diversion requirements. Because this organic waste accumulates in the stormwater system and is not disposed by any particular generator in a container, it is likely to contain significant contamination and is difficult to separate from other waste and recycle. The Task Force recommends adding a waiver to the regulations addressing organic waste collected from routine cleanouts of debris basins, catch basins, and other stormwater infrastructure.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) Stormwater Infrastructure Exemptions:</p> <p>(1) The Department shall grant waivers for organic waste collected from routine clean-outs of catch basins, debris basins, and other stormwater infrastructure. A local jurisdiction or private contractor may apply to the Department for a general waiver to exempt the organic waste collected from stormwater infrastructures.</p> <p>(d-e) Nothing in this section 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.</p>	This situation is already covered in Section 18984.13(b)(3). This section allows for disposal of sediment debris removed from dams, culverts, reservoirs, channels and other flood control infrastructure.
4050	Clark, M LA County Solid Waste Mgt Committee	<p>This section does not address compliance requirements for those cases for which “State of Emergency” as proclaimed by the Governor and defined by the California Code of Regulations, Title 14, Section 17210.1 (k).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) (3) In a case of a “State of Emergency” as proclaimed by the Governor and defined in Section 17210.1 (k) of this division, the Department shall grant a waiver to a jurisdiction(s) from complying with the requirements of this article.</p>	<p>Section 19894.13(b)(1) specifically references Sections 17210.4 (Granting An Emergency Waiver) and 17210.9 (Executive Director’s Powers and Duties Relative to the Emergency Waiver) and addresses situations where the governor has declared a state of emergency as defined in Section 17210.1(k).</p> <p>A change in the regulatory text to not count disaster debris as jurisdictional disposal is not necessary. Again jurisdictions are subject to complying with regulatory actions, there is no jurisdictional disposal requirement for the purposes of this chapter.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Additionally, disaster debris generated from such an emergency shall not be counted as jurisdictional disposal for the purpose of measuring compliance with requirements of this chapter by the Department.</p>	
4051	Clark, M LA County Solid Waste Mgt Committee	<p>The Department should grant a waiver for jurisdictions demonstrating a good faith effort to comply with the regulations but are unable to do so due to factors outside of their control. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (emphasis added).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) Rural Exemptions:</p> <p>(1)The Department shall grant an exemption from complying with the organic waste collection requirements specified in this article for Rural Jurisdictions that meet the definition of a “Rural Jurisdiction” in Section 42649.8 of the Public Resources Code, if the governing body of the jurisdiction adopts a resolution that includes a finding as to the purpose of and need for the exemption.</p> <p>(2) An exemption implemented pursuant to this subdivision shall be valid until January 1, 2025, or until five years after the Department makes a determination pursuant to Section 42649.82 (a)(2)(D) that the statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, whichever is later.</p> <p>(d) Good Faith Effort Exemptions:</p> <p>(1) The Department shall grant an exemption from complying with a part of or all of the requirements of the regulations for a jurisdiction demonstrating a “good faith effort” to comply but cannot do so due to factors outside of its control.</p> <p>(d) (e) Nothing in this section exempts a jurisdiction from complying with the other requirements to promote and 40 provide information to generators about, waste prevention, community composting, managing organic waste 41 on-site, and other means of recovering organic waste, or any other requirements of this chapter.</p>	<p>Section 18996.2 includes all circumstances outside of a jurisdiction’s control, including the inability to identify a facility with sufficient capacity to process the materials. The regulations require a jurisdiction to demonstrate that extenuating circumstances exist and that it has made a “substantial effort” which means that it has taken all practicable actions to comply.</p>
4052	Clark, M LA County Solid Waste Mgt Committee	<p>Since solid waste facility operators are in direct contact with self-haulers and jurisdictions currently have no way of identifying a generator who is a self-hauler, the Task Force recommends giving solid waste facility operators the defined role of providing information regarding the requirements of Section 18988.3 of this chapter to the self-haulers.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Prior to February 1, 2022, and annually thereafter, a jurisdiction solid waste facility operators shall provide to self-haulers information regarding the requirements of Section 18988.3 of this chapter.</p>	<p>CalRecycle deleted requirements that jurisdictions specifically identify and educate self-haulers in response to this comment. Jurisdictions can meet the requirement to educate self-haulers by including information oneself-hauling in their general education and outreach material provided to all generators. CalRecycle deleted language requiring solid waste facility operators to educate self-haulers as it would be overly burdensome and is outside the scope of what EAs monitor at solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction.</p>

Comment Number	Received From	Question/Comment	Response(s)
4053	Clark, M LA County Solid Waste Mgt Committee	<p>Los Angeles County is a very linguistically diverse county. Within the unincorporated areas alone, there are many generators that are "Limited English Speakers". The Task Force is concerned that the regulations may require jurisdictions to provide the education and outreach materials in every language spoken by generators within a given jurisdiction.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(f) If more than five percent of a jurisdiction's generators are defined as "Limited English Speaking Households," or "linguistically isolated," as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a the most common language or languages that will assure the information is understood by those generators and may provide the information required by this section in other languages, upon request from a generator.</p>	<p>Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.</p>
4054	Clark, M LA County Solid Waste Mgt Committee	<p>Section 18986.1. Non-Local Entities Requirements states that "materials subject to a quarantine on movement issued by a county" shall not be deposited in organic waste containers (green) or recycling containers (blue). However, the proposal does not prohibit disposal in the gray container, leading to the ultimate transfer of these materials to solid waste facilities which would cause the spread of contamination and/or disease. This issue needs to be addressed in the next version of the proposed regulations. Furthermore, collection requirements for non-local entities should be consistent with the requirements for collection services provided by jurisdictions to other generators, including residents and businesses. The requirements for collection services provided by local jurisdictions do not make reference to restrictions on the disposal of "materials subject to a quarantine on movement by a county" in any collection container.</p>	<p>Thank you for the comment. CalRecycle amended the applicable section to state that a non-local entity's collection service shall be in compliance with the requirements in Article 3.</p>
4055	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s):</p> <p>The requirements for local education agencies are not consistent with the requirements for commercial businesses, multifamily properties, and non-local entities. Unlike the other aforementioned groups, Section 18986.2 does not include requirements for local education agencies to prohibit the placement of organic waste in containers not designated for organic waste, and to periodically inspect collection containers for and inform employees of observed contamination. The Task Force recommends that the Department create uniform requirements for all regulated entities, included local education agencies, so as to afford equal treatment.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Local education agencies shall also:</p> <ol style="list-style-type: none"> Provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located. The containers provided shall conform to the requirements of the containers provided through the organic waste recovery service to which the local education agency is subscribed. 	<p>CalRecycle has revised Section 18986.2 to reflect that local education agencies shall prohibit their employees from placing organic waste in the incorrect container.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(2) Prohibit their employees and students from placing organic waste in containers not designated for organic waste as set forth in Section 18984.1.(a)(5) and Section 18984.2.(a)(5) of this chapter.</p> <p>(3) Periodically inspect organic waste containers for contamination and inform employees if containers are contaminated, and of the requirement to only use those containers for organic waste</p>	
4056	Clark, M LA County Solid Waste Mgt Committee	<p>Section 18987.2</p> <p>It is unclear what conditions would render sewage sludge and biosolids not suitable for additional processing or recovery and require them to be sent for disposal. In addition, as written, the regulations seem to indicate that biosolids can only be disposed if they cannot be recovered. CalRecycle should not require all biosolids to be recovered and should not limit landfill disposal of biosolids as long as the organic waste landfill disposal reduction targets can be satisfied. Additionally, the remaining sewage sludge and biosolids sent for disposal to appropriate permitted disposal facilities should not be counted as disposal against the host jurisdictions in which the POTW and disposal facility is located.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) Sewage sludge and biosolids generated at a POTW shall may be:</p> <ol style="list-style-type: none"> Transported only to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 20.1(b) of this Division, or Notwithstanding subdivision (a)(1), sewage sludge and biosolids not suitable for additional processing or recovery may be s- Sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the local, regional, state, and federal agencies having appropriate jurisdiction. <p>(3) Residual sewage sludge and biosolids that are remaining after treatment at a POTW and destined for disposal are not subject to requirements of this chapter including, but not limited to, organic waste disposal reduction .</p>	CalRecycle has deleted Section 18987.2 in response to comments.
4057	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s):</p> <p>As written, the regulations require self-haulers to source-separate all organic waste generated on site. Self-haulers should not be held to more stringent standards than contracted haulers and should also be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) Generators of organic waste may, in compliance with Section 18988.1 of this Division self-haul their own organic waste.</p> <p>(b) A generator who is a self-hauler of organic waste shall comply with the following:</p> <ol style="list-style-type: none"> The generator shall source separate all organic waste generated on site in a manner consistent with 14 CCR Section 30.1 and 30.2 of this chapter. (2) 	CalRecycle revised Section 18988.3 in response to this comment to clarify that self-haulers should not be held to more stringent standards than contracted haulers and should be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1) The generator shall haul source-separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source-separated organic waste.</p> <p>(3)(2) The generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the jurisdiction.</p> <p>(A) The records shall include delivery receipts and weight tickets from the entity accepting the waste.</p> <p>(B) The record shall indicate the amount of material in cubic yards or tons transported by the generator to each entity.</p> <p>(C) Notwithstanding subdivision (b)(3)(A), if the material is transported to an entity that does not have scales on-site, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.</p> <p>(4) (3) A self-hauler shall annually report the following to the jurisdiction in which it is located:</p> <p>(A) The total amount of source-separated organic waste in tons that was self-hauled; and,</p> <p>(B) The location or address of each entity that accepted self-hauled waste from the generator.</p> <p>(5) (4) A residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in subdivision (b)(2) and (b)(3).</p>	
4058	Clark, M LA County Solid Waste Mgt Committee	<p>The Task Force is concerned about the requirement (a)(3)(A) which states that the jurisdiction must provide copies of all reports required by haulers to the Department (emphasis added). Jurisdictions, through their franchise agreements/contracts, have committed to protecting proprietary information which may result in an economic disadvantage should the information be disclosed to haulers' competitors. The Task Force recommends removing the requirement for jurisdictions to provide copies of all reports in order to protect the hauler's proprietary information.</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the Implementation Record required by Article 14 of this chapter. Records maintained shall include but are not limited to copies of:</p> <p>(1) Ordinances, contracts, franchise agreements, policies procedures, or programs relevant to this section.</p> <p>(2) A description of the jurisdiction's hauler program including:</p> <p>(A) Type of hauler systems the jurisdictions uses.</p>	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(B) Type and conditions of approvals per type of hauler, and criteria for approvals, denials and revocations. (C) Process for issuing, revoking, and denying written approvals.</p> <p>(D) Any requirements associated with self-hauling and back-hauling.</p> <p>(3) A record of hauler compliance with local ordinance(s) and the requirements of this article including the following information:</p> <p>(A) Copies of all reports required by haulers.</p> <p>(B A) Copies of reports from self-hauler as required by Section 18988.3.</p> <p>(C B) Copies of all written approvals, denials, and revocations.</p> <p>(b) All records required by this article shall include the date of action, the name of the hauler, and the type of the action taken by the jurisdiction.</p>	
4059	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s):</p> <p>The “non-local entities” and “local education agencies” do not report to local jurisdictions and, in most cases, they are not regulated by the local jurisdiction’s building officials. As such, the Department is the best entity for managing the requirements of Section 18989.1. for these generators. The Department will be responsible for tracking and ensuring compliance by non-local entities and local education agencies.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Non-local entities and local education agencies are to comply with requirements of Subsections (a)(1) and (a)(2) and reporting to the Department.</p>	Other provisions in the regulations make clear that non-local entities and local education agencies are subject to CalRecycle oversight. No changes to the regulatory language are necessary.
4060	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s):</p> <p>Based on provisions of Subsection (c)(4), the proposed requirements of the Subsection(b)(3) contradict the decision in UNITED HAULERS ASSOCIATION, INC., ET AL V. ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY ET AL., that prevents jurisdictions to utilize flow control.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b)(3) Limit the export outside of organic waste to a facility, operation, property or activity outside the jurisdiction that recovers the organic waste through a method identified in Article 2 of this chapter.</p> <p>(c)(4) Prohibit a jurisdiction from arranging through a contract or franchise for hauler or a self-haul organic waste generator to transport organic waste to a particular solid waste facility or operation for processing or recovery.</p>	<p>Oneida-Herkimer states that an ordinance requiring waste go to a public facility does not violate the flow control restrictions of the Commerce Clause, it does not authorize or require that municipalities be allowed to do so under the US Constitution nor does it prohibit a state from prohibiting such restrictions..</p> <p>The Integrated Waste Management Act (IWMA) explicitly promotes the free movement of material under Public Resources Code Sections 40001 and 40002 and this restriction is designed to ensure that.</p> <p>A change to the regulatory text is not necessary. United Haulers Association Inc., et al. v. Oneida-Herkimer Solid Waste Management Authority et al. states that an ordinance requiring waste go to a public facility does not violate the flow control restrictions of the Interstate Commerce Clause, does not authorize or require that municipalities be allowed to do so under the U.S. Constitution, nor does it prohibit a state from prohibiting such restrictions.</p> <p>State law explicitly promotes the free movement of material under the Integrated Waste Management Act, Public Resources Code Sections 40001 and 40002, and this restriction is designed to ensure that.</p> <p>Section 18990.1 (c) (4) simply notes that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery. This section does not state what the regulations are requiring, but rather what the regulations do not do. Thus, United Haulers Association Inc., et al. v. Oneida-Herkimer Solid Waste Management Authority et al. is irrelevant.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Read together, section 18990.1 (b) (3) prohibits a local ordinance that restricts flow, and section 18990.1 (c) (4) allows for contractual relationships, which does not restrict the flow of materials.
4061	Clark, M LA County Solid Waste Mgt Committee	<p>The Task Force recommends that the State specify that jurisdictions are required to provide education and monitor compliance of commercial edible food generators but that this requirement excludes certain Tier Two commercial edible food generators, namely “non-local entities” and “local education agencies”. Because non-local entities and local education agencies do not report to local jurisdictions, the Department is the best entity for managing the requirements of Section 18991.1 for these generators. The Department will be responsible for tracking waivers and exemptions for these groups and would be in the best position to education, monitor, and conduct outreach to these generators.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) A jurisdiction shall implement an edible food recovery program that shall include the actions that the jurisdiction plans to take to accomplish the following:</p> <ol style="list-style-type: none"> Educate commercial edible food generators with the exception of non-local entities and local education agencies as set forth in Section 18985.2. Increase the access of commercial edible food generators access with the exception of non-local entities and local education agencies to edible food recovery organizations and edible food recovery services. Monitor the compliance of commercial edible food generators compliance with the exception of non-local entities and local education agencies as required in Article 14. Increase edible food recovery capacity if the analysis required by Section 18992.1 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs. <p>(b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms.</p>	<p>Although jurisdictions will not enforce non-local entities or local education agencies, jurisdictions are still required to provide non-local entities and local education agencies with edible food recovery education and outreach pursuant to Section 18991.1 (a)(1) and Section 18985.2 of the regulations. CalRecycle would also like to clarify that jurisdictions are required to increase all commercial edible food generators' access to food recovery organizations and food recovery services including local education agencies and non-local entities located within the jurisdiction. In addition, it is clear from the definition of "non-local entity" and "local education agency" that they are not subject to the control of a jurisdiction's authority; therefore, is it implicit that jurisdictions are only to enforce on those they have authority over. CalRecycle is responsible for monitoring compliance and enforcement of those entities.</p> <p>Regarding the comment about CalRecycle being responsible for tracking waivers and exemptions for these groups and would be in the best position to educate, monitor, and conduct outreach to these generators, the regulatory text does not include commercial edible food generator waivers or exemptions.</p>
4062	Clark, M LA County Solid Waste Mgt Committee	<p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) A jurisdiction shall include all documents supporting its compliance with Section 18991.1 in the Implementation Record required by Section 18995.2 of this chapter and shall also include at a minimum:</p> <ol style="list-style-type: none"> A list of commercial edible food generators with the exception of non-local entities and local education agencies in the jurisdiction that have arrangements with edible food recovery organizations or services. Non-local entities and local education agencies are to report to the Department, as appropriate. 	<p>Section 18991.2 requires jurisdictions to include all documents supporting its compliance with Section 18991.1 in the Implementation Record. To clarify, since jurisdictions are not required to monitor the compliance of non-local entities or local education agencies, jurisdictions are therefore not required to include non-local entities or local education agencies on their list pursuant to Section 18991.2 (a)(1). However, all commercial edible food generators in the jurisdiction (that are not non-local entities or local education agencies) 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).</p> <p>CalRecycle would also like to clarify that 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 non-local entities and local education agencies. Therefore, the jurisdiction must identify all commercial edible food generators in the jurisdiction</p>

Comment Number	Received From	Question/Comment	Response(s)
			(including non-local entities and local education agencies) and include the number of all those commercial edible food generators on its list required in Section 18994.2 (h)(1).
4063	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s) If a large event is held at a State-owned facility, such as a state park, the regulations should clarify that it is the responsibility of the Department to ensure compliance with this Section 18991.3. and Section 18997.2. Penalty Amounts.</p>	Other provisions in the regulations make clear that non-local entities and local education agencies are subject to CalRecycle oversight. No changes to the regulatory language are necessary.
4064	Clark, M LA County Solid Waste Mgt Committee	<p>Comment(s): It should be recognized that the local task force created pursuant to Section 40950 of the Public Resource Code can be an asset to the county and the cities within the county in data collection and planning efforts listed in Section 18992.1(a).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (a) "Counties in coordination with cities, and regional agencies located within the county, and the local task force created pursuant to Section 40950 of the PRC, shall:" 	A change in the regulatory text is not necessary because the regulations already identify local task forces as needing to be consulted.
4065	Clark, M LA County Solid Waste Mgt Committee	<p>There is major concern with jurisdictions being required to "verify" that capacity is available to them through contracts, permits, franchise or guarantees of access documentation. Considering that there is already a shortfall in organic waste management capacity statewide, it is inevitable that some jurisdictions will be without capacity. This may result in a competitive bidding war and/or implementation of flow control by some entities.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (a) (2) The jurisdiction in which the facility is located, and all appropriate Regional, State and Federal non-local entities and local education agencies, shall identify the amount in tons of the existing organic waste recycling infrastructure capacity at each fully permitted facility, which they are or intent to use, located both in the county and outside of the county, that is verifiably available to the county, and jurisdictions, non-local entities and local education agencies located within the county. <p>(A) A county can demonstrate the capacity is verifiably available to the county or its jurisdictions through a contract, permit, franchise, or other documentation of the following:</p> <ol style="list-style-type: none"> A guarantee of access to existing permitted or authorized capacity at a A binding guarantee of access and tonnage capacity to an existing and fully permitted facility, activity, operation, or property that recovers organic waste. A guarantee of access to new or expanded capacity at a fully permitted facility, activity, operation, or property that recovers organic waste that will be available prior to the end of the reporting period. 	Thank you for the comment. CalRecycle substantially revised the relevant regulatory text at issue such that the suggested revisions are no longer relevant.

Comment Number	Received From	Question/Comment	Response(s)
4066	Clark, M LA County Solid Waste Mgt Committee	<p>Cities or regional agencies are required to respond within 120 days to a county when contacted about the amount of organic waste in tons that will be disposed by the cities. A similar requirement also needs to be imposed on non-local entities and local education agencies because most likely these entities will be using facilities/capacity within the said county. Since counties are penalized financially for failing to estimate organic waste disposed, the Task Force recommends including language within this section that ensures that counties are not liable if cities, non-local entities, local education agencies or regional agencies fail to respond within the given time frame.</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions: (b) A city, non-local entity, local education agency or regional agency contacted by a county pursuant to subdivision (a) shall 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.</p> <p>(1) If a city, non-local entity, local education agency or regional agency does not provide the necessary information to the County within the required timeframe, the County will not be held liable for failing to fully comply with requirements of this Article 11. report on this jurisdiction’s organic waste disposal.</p>	<p>The language was revised to accommodate this request. Language stating the following was added:</p> <p>“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...”</p> <p>Non-local entities and local education agencies are not required to report information to jurisdictions under this article.</p>
4067	Clark, M LA County Solid Waste Mgt Committee	<p>The regulations state that the county shall conduct community outreach regarding locations being considered for new or expanded facilities, in- or outside the county. We recommend that this responsibility be the role of the jurisdiction (host city or host county for unincorporated area) in which the new or expanded facility is being proposed, and not solely the role of the county regardless of the location of the new or expanded facility.</p> <p>In addition, the regulations state that haulers and owners of facilities, operations, and activities that recover organic waste shall respond to the jurisdiction regarding potential new or expanded capacity at their facilities; however, it does not include “existing capacity”.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions: (c) In complying with this section, the county, city, and/or regional agency depending on the location of the facility or activity shall:</p> <p>(1) Consult with the Enforcement Agency and the local task force created pursuant to Section 40950 of the Public Resources Code on the status of locations for new or expanded solid waste facilities including the potential capacity increase each facility may provide if approved.</p> <p>(2) Consult with haulers and owners of facilities, operations, and activities that recover organic waste including, but not limited to, compost facilities, in-vessel digestion facilities, and Publicly Owned Treatment Works to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities.</p>	<p>The community outreach required in Section 18992.1(c)(3) is intended for the facilities or activities located within the county. Counties can work in coordination with cities to provide this outreach. Nothing precludes cities from providing outreach.</p>

Comment Number	Received From	Question/Comment	Response(s)
		(A) Entities contacted by a jurisdiction shall respond within 60 days of receiving the request to the jurisdiction regarding existing and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes	
4068	Clark, M LA County Solid Waste Mgt Committee	<p>The regulations state that the county shall conduct community outreach regarding locations being considered for new or expanded facilities. The regulations should clarify if this outreach must be done throughout an entire city that a new or expanded facility is being considered or within a radius of a certain number of miles from the address at which the facility is being proposed.</p> <p>For example, if a facility is being considered in City A, does the outreach need to take place in all areas of City A, only or does it need to take place within an “X” mile radius of the proposed facility?</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(3) 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. The community outreach shall:</p> <p>(A) Be conducted within a X mile radius of the location of the proposed new or expanded facility.</p> <p>(A)(B) Include at least one of the following forms of communication: public workshops or meetings, print noticing, and electronic noticing.</p> <p>(B)(C) If applicable be conducted in coordination with potential solid waste facility operators that may use the location identified by the county.</p> <p>(C)(D) Specifically include communication to disadvantaged communities that may be impacted by the development of new facilities at the locations identified by the county. If more than five percent of that community is defined as “Limited English Speaking Households,” or “linguistically isolated,” as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a language or languages that will assure that the information is understood by that community.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
4069	Clark, M LA County Solid Waste Mgt Committee	<p>According to SB 1383, CalRecycle, in consultation with CARB, shall adopt regulations that achieve the specified targets for reducing organic waste in landfills (i.e., a 50-percent reduction by 2020 and a 75-percent reduction by 2025). The current draft of the regulations state that a jurisdiction that lacks sufficient capacity shall “demonstrate how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period.” The way it is currently written, it appears that the regulations are requiring that all organic waste that is currently disposed be recovered (or planned for recovery) by the end of the report period.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: 	A change to the regulatory text is not necessary because the proposed change would entail placing a numerical limit on a jurisdiction, which is not allowed by the statute.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(d) If a county determines that organic waste recycling capacity, in addition to the existing and proposed capacity identified pursuant to subsection (a), is needed within that county, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity that each jurisdiction is required to:</p> <p>(1) Submit an implementation schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover an amount of the organic waste that is equivalent to a 50-percent reduction in 2014 organic waste disposal levels by 2020, and a 75-percent reduction by 2025 currently disposed by generators within their jurisdiction by the end of the report period set forth in Section 18992.3 of this article.</p>	
4070	Clark, M LA County Solid Waste Mgt Committee	<p>Including options that would require jurisdictions to plan for obtaining funding or provide financial support for expansion of organic waste recycling facilities would put an undue burden on jurisdictions. The Task Force recommends that this language be removed and replaced with other options including efforts by the Department and State to promote the development of new facilities.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d)(1) Submit an implementation schedule plan to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed of by generators within their jurisdiction by the end of the report period.</p> <p>(A) The implementation schedule plan shall include timelines and milestones for planning efforts to access strategies for ensuring additional new or expanded capacity, including, but not limited to:</p>	The regulatory language at issue does not require funding. It requires an implementation schedule laying out milestones and timelines for planning efforts. CalRecycle is not enforcing a funding requirement.
4071	Clark, M LA County Solid Waste Mgt Committee	<p>“Identify” is spelled incorrectly.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(d)(2) Identify Identify proposed new or expanded organic waste recycling facilities that will be used to process the organic waste identified pursuant to subsection (a)(3).</p>	Thank you for your comment, the error was corrected.
4072	Clark, M LA County Solid Waste Mgt Committee	<p>For capacity planning purposes, the regulations include “digestate and biosolids” within the organic waste material types. In the latest version of CalRecycle’s Characterization of Solid Waste in California report, these two materials are not included in the report. Since the regulations lists the waste characterization study as a means to estimate the countywide disposal, will CalRecycle provide counties with the disposal composition of these materials to assist in the capacity planning analysis? We recommend that CalRecycle provide counties with the statewide disposal composition of digestate and biosolids before the first capacity plan is due to CalRecycle on February 1, 2022.</p>	<p>CalRecycle has revised Section 18992.1(f) in response to this comment. The change adds another information source that can be used for this requirement. The change is necessary because statewide or local characterization studies typically do not characterize digestate/biosolid, as they are not a part of the commercial and residential waste stream. 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/biosolids. This data would be used in addition to either statewide or local characterization studies.</p> <p>The RDRS 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 onsite). Since this data will include large generators, CalRecycle will include this data in the capacity planning tool.</p>

Comment Number	Received From	Question/Comment	Response(s)
4073	Clark, M LA County Solid Waste Mgt Committee	Counties are required to “Estimate the amount of edible food that will be disposed of by commercial edible food generators . . .”. Currently, there are no tools to quantify the amount of edible food in the disposal stream. Therefore, we recommend that CalRecycle provide Counties with a methodology to estimate the amount of edible food within the disposal stream.	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
4074	Clark, M LA County Solid Waste Mgt Committee	<p>It should be recognized the local task force created pursuant to Section 40950 of the Public Resource Code can be an asset to the county and the cities within the county in data collection and planning efforts listed in Section 18992.2 (a).</p> <p>In addition, the regulations should include a requirement on cities, regional agencies and edible food recovery organizations to respond to and provide the requested capacity data/information to Counties or other applicable jurisdictions for edible food capacity planning purposes.</p> <p>Additionally, in Section 18992.2(a)(3), counties are required to “Identify proposed new or expanded edible food recovery organizations”. Additionally, in Section 18992.2(b)(2), jurisdictions are required to “Consult with edible food recovery organizations. . . regarding existing, or proposed new and expanded capacity”. This appears to be a very repetitive requirement. We recommend that Counties be required to focus on existing edible food recovery capacity and cities (jurisdictions) be required to focus on the new or expanded edible food recovery capacity.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) Counties in coordination with cities, and regional agencies located within the county, and the local task force created pursuant to Section 40950 of the PRC shall:</p> <ol style="list-style-type: none"> (1) Estimate the amount of edible food that will be disposed of by commercial edible food generators that are located within the county and jurisdictions within the county. (2) Identify existing capacity at edible food recovery organizations that is available to commercial edible food generators located within the county and jurisdictions within the county. (3) Identify proposed new or expanded edible food recovery organizations that will be used to process edible food identified pursuant to subsection (1). (4)(3) Identify the amount of capacity at edible food recovery organizations that is necessary to recover 20 percent of the edible food that is estimated to be disposed. <p>(b) A city or regional agency contacted by a county pursuant to subdivision (a) shall 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.</p> <p>(c) Food recovery organizations contacted by a jurisdiction shall respond to the jurisdiction regarding potential new or expanded food recovery capacity at their facilities, operations, and activities.</p>	

Comment Number	Received From	Question/Comment	Response(s)
		(b) (d) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction(s) within that county that lacks capacity shall.	
4075	Clark, M LA County Solid Waste Mgt Committee	The Task Force recommends that this section be expanded to add a subsection including appropriate provisions for compliance by non-local entities and local education agencies a consistent with requirements of this Article 11.	A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.
4076	Clark, M LA County Solid Waste Mgt Committee	For the purpose of this Article, the discussions and requirements need to be expanded to include appropriate provisions for compliance by non-local entities and local education agencies consistent with requirements of this article.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
4077	Clark, M LA County Solid Waste Mgt Committee	While the Task Force recognizes the need and importance of market development, such efforts must be mandated by legislative authority with associated funding to assist local jurisdictions. The Task Force recommends that the requirement for local jurisdictions to procure recovered organic waste products be eliminated from the regulations, since this requirement is not supported by legislative authority.	<p>Procurement requirements are within CalRecycle's authority and are necessary to achieve the organic waste diversion targets in statute by ensuring end uses for processed organic waste. SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .'. The [administrative agency] is authorized to 'fill up the details' of the statutory scheme."</p> <p>Consistent with CalRecycle's broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission's 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that "state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas." As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board's Short Lived Climate Pollutant Strategy states, "CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products."</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle's 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p>

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			<p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste. Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, "A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section."</p>
4078	Clark, M LA County Solid Waste Mgt Committee	<p>In addition to compost and renewable transportation fuel, CalRecycle should add electricity generated from recycled organic waste to the list of recycled organic waste products that may be procured to meet the recovered organic waste procurement target. In-vessel digestion and biomass conversion are activities deemed to constitute a reduction in landfill disposal per Section 18983.1(b) (3) and (4) of the proposed regulations, respectively. In-vessel digestion produces biogas and biomass conversion produces syngas, both of which can be used to produce renewable natural gas (RNG) and electricity, as well as transportation fuel. CalRecycle should be promoting, rather than limiting, the use of the recycled organic waste products that may be procured to provide jurisdictions flexibility and a variety of options to meet the procurement target. Producing compost in densely-populated urban and suburban jurisdictions can be challenging due to odors, space constraints, and permitting issues. The stringent requirements for pipeline injection of RNG transportation fuel in the state will make it extremely challenging for jurisdictions to procure RNG transportation fuel from remote production facilities and will require each jurisdiction to develop several of its own RNG production and on-site fueling facilities. CalRecycle needs to be a tool rather than an obstacle in promoting development of facility using emerging technologies (such as low- and mid- temperate thermal conversion technologies) to develop products in assisting the reduction of organic waste landfill disposal.</p>	<p>"The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards."</p>

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4079	Clark, M LA County Solid Waste Mgt Committee	<p>Should CalRecycle pursue any mandatory procurement requirements, then CalRecycle should phase in such requirements since the availability of these products may be limited in the first few years of program implementation and jurisdictions should not be penalized if they are unable to procure the required amounts of these products.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(f) For the purposes of this article, the recycled organic waste products that must may be procured are:</p> <ol style="list-style-type: none"> Compost. Renewable transportation fuel Electricity Renewable natural gas Any other recycled organic waste products approved by the Department <p>(g) The following conversion factors shall be used to convert tonnage in the annual recycled organic waste product procurement target for each jurisdiction to equivalent volumes of recycled organic waste products:</p> <ol style="list-style-type: none"> One ton of organic waste in a recycled organic waste product procurement target shall constitute: <ol style="list-style-type: none"> 19 diesel gallon equivalents, or “DGE,” of renewable transportation fuel 0.58 tons of compost. XX kilowatts of renewable electricity XX cubic feet of renewable natural gas 	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle disagrees with adding an option for approval of “any other recycled organic waste products” for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
4080	Clark, M LA County Solid Waste Mgt Committee	<p>For the purpose of this Article, include a section to stipulate appropriate provisions for compliance by non-local entities and local education agencies consistent with requirements of this article.</p>	<p>A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.</p>

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4081	Clark, M LA County Solid Waste Mgt Committee	<p>The Task Force recommends that CalRecycle clarify that the jurisdictions' reporting requirements under this Article 13 exclude non-local entities and local education agencies not receiving services through local jurisdictions' collection systems.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Each jurisdiction shall report the following, relative to its implementation of the organic waste collection requirements of Article 3 of this chapter:</p> <ol style="list-style-type: none"> The type of organic waste collection service(s) provided by the jurisdiction to its generators with the exception of non-local entities and local education agencies. The total number of generators that receive each type of organic waste collection service provided by the jurisdiction with the exception of non-local entities and local education agencies. 	<p>If a jurisdiction is not providing collection service to non-local entities and/or local education agencies, jurisdictions are not required to reflect those in their reporting.</p>
4082	Clark, M LA County Solid Waste Mgt Committee	<p>Requiring a jurisdiction to be responsible for all tracking and reporting of self-haulers and non-exclusive franchise haulers as stipulates in subsections (d) and (f) requires strict regulation, inspection and enforcement activities by the jurisdiction while placing significant activities on small businesses like landscapers, small community composter, etc. To reduce the impact of this costly and time-consuming requirement, the proposal should allow the information collected from affected self-haulers pursuant to AB 901, Chapter 746 of the 2015 State Statutes.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) Each jurisdiction shall report the following relative to its implementation of waivers pursuant to Article 3.</p> <ol style="list-style-type: none"> The number of days an emergency circumstances waiver as allowed in 18984.13 was in effect and the type of waiver issued. The tons of organic waste that were disposed as a result of waivers identified in (1). The number of generators issued a de-minimis waiver. The number of generators issued a physical space waiver. A jurisdiction that receives a waiver from the Department pursuant to Section 18984.12 of Article 3 shall report the following information for each year the waiver is in effect: <ol style="list-style-type: none"> The number of generators waived from the requirement to subscribe to an organic waste collection service. <p>(6) In lieu of the above, the jurisdiction and self-haulers can utilize the data collected pursuant to AB 901, Chapter 746 of the State Statute of 2015.</p> <p>(f) A jurisdiction shall report the following regarding its implementation of the hauler oversight requirements of Article 7.</p> <ol style="list-style-type: none"> The number of haulers approved to collect organic waste in the jurisdiction. The Recycling and Disposal Reporting System number of each facility that is receiving organic waste from haulers approved by the jurisdiction. The number of haulers that have had their approval revoked or denied. 	<p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(4) The number of self-haulers approved to operate within the jurisdiction.</p> <p>(5) The total amount, in tons, of source separated organic waste that was self-hauled by organic waste generators and reported to the jurisdiction pursuant to Section 18988.3.</p> <p>(6) In lieu of the above, the jurisdiction and self-haulers can utilize the data collected pursuant to AB 901, Chapter 746 of the State Statute of 2015.</p>	
4083	Clark, M LA County Solid Waste Mgt Committee	For the purpose of this Article, include a section to stipulate appropriate provisions and identify/specify the entity that would be responsible to measure compliance {i.e. conduct inspection(s), take enforcement action(s), recordkeeping, and possible imposition of penalties} of non-local entities, including federal agencies/facilities) and local education agencies} with appropriate requirements of this Article.	A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.
4084	Clark, M LA County Solid Waste Mgt Committee	<p>There is concern with maintaining confidentiality of some information in that in order to comply with the regulations, the jurisdiction would need to provide its customer lists to CalRecycle.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) A jurisdiction shall generate a written report for each inspection, route review, and compliance review conducted pursuant to this Chapter. Each report shall include, at a minimum, the following information, unless such information is restricted by a confidentiality agreement or considered proprietary information:</p> <p>(1) Identifying information for the subject or subjects of the inspection, route review or compliance review, such as, but not limited to:</p> <p>(A) The name or account name of each person or entity.</p> <p>(A B) A general description of the route and addresses location covered by a route review.</p> <p>(B C) A general description of the list of accounts reviewed for each compliance review.</p> <p>(C) A list of accounts, including addresses along with names of the account holders, determined by the jurisdiction to be subject to enforcement actions.</p>	The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure.
4085	Clark, M LA County Solid Waste Mgt Committee	Pursuant § 42653 of the PRC, CalRecycle and CARB (not local jurisdictions) are responsible for identifying the barriers to organic waste recycling, the status of new organics recycling infrastructure development, the commitment of state funding to support infrastructure expansion, the progress in reducing regulatory barriers to the siting of organics recycling facilities, the timing and effectiveness of policies that will facilitate the permitting of organics recycling infrastructure, and the status of markets for the products generated by organics recycling facilities. Therefore, the Task Force recommends that the regulatory language include allowances for jurisdictions and other entities that demonstrate a substantial effort to comply with the regulations but are unable to do so due to factors outside of their control. Furthermore, the Task Force recommends that CalRecycle revise the regulations to incorporate provisions for jurisdictions demonstrating a "good faith effort" to	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction

Comment Number	Received From	Question/Comment	Response(s)
		<p>comply. Public Resources Code § 42652.5 (4) states, “The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (See General Comment A.2.b).</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) If the Department finds that a jurisdiction is violating one or more of the requirements of this Chapter, and has not made a good faith effort to fulfill these requirements, then the Department may take the following actions:</p> <p>(1) Hold a public hearing, which, to the extent possible, shall be held in the local or regional agency’s jurisdiction, to determine whether or not the jurisdiction has failed to make a good faith effort towards compliance.</p> <p>(1) (2) Issue a Notice of Violation requiring compliance within 90 days. An extension may be granted for an additional 90 days, if the jurisdiction submits a written request to the Department within 60 days of the Notice of Violation’s issuance that includes:</p> <ul style="list-style-type: none"> (A) Evidence that additional time is needed to comply. (B) The steps the jurisdiction will take to correct the violation, including demonstration that it can comply within 180 days of the Notice of Violation’s issuance date. <p>(2) (3) The Department may extend the timeframe for a jurisdiction to comply beyond 180 days from the Notice of Violation issuance date by issuing a Corrective Action Plan (CAP) for up to 24 months, setting forth steps to achieve compliance, if the jurisdiction has demonstrated, that it has made a substantial good faith effort to comply and there are extenuating circumstances that have prevented it from complying.</p> <ul style="list-style-type: none"> (A) A jurisdiction shall submit a written request for the extension at least 30 days prior to the Notice of Violation final compliance date. The request shall provide documentation demonstrating its substantial good faith effort to comply, and the extenuating circumstances which prevents it from complying, and identify the critical milestones that the jurisdiction would need to meet in order to comply within 24 months. <ul style="list-style-type: none"> 1. If a jurisdiction claims that the cause of the delay is inadequate capacity of organic waste recovery facilities, it shall document the lack of capacity and demonstrate that it has provided service where possible and that it has only delayed compliance with this chapter for areas where service cannot be provided due to capacity limits. Implementation schedules, under Article 11, may be considered for purposes of developing a Corrective Action Plan; however, the Department may set compliance milestones other than those provided in the Implementation Schedule. (B) For the purposes of this section, “substantial good faith effort” means that a jurisdiction has taken all practicable actions to comply. Substantial effort does not include circumstances where a decision-making body of a 	

Comment Number	Received From	Question/Comment	Response(s)
		<p>jurisdiction has not taken the necessary steps to comply with the Chapter, including, but not limited to, a failure to provide staff resources, a failure to provide sufficient funding to assure compliance, or failure to adopt required ordinances.</p> <p>(C) For the purposes of this section, "extenuating circumstances" means that a delay in compliance has been caused by:</p> <ol style="list-style-type: none"> 1. Circumstances outside of a jurisdiction's control; including acts of God and declared emergencies such as earthquake, fires, flooding, or delays in obtaining discretionary permits or other government agency approvals, or failure of non-local entities or local education agencies, located within the jurisdiction, to fully comply with requirements of this chapter. 2. A long term infrastructure or capacity change which requires a corresponding longer length of time to achieve compliance. 3. lack of adequate markets for the products produced from organic waste recycling activities. <p>(D) For the purposes of this section, "critical milestones" means all actions necessary for a jurisdiction to comply, including, but not limited to, receiving approval by decision-making bodies, permit application submittals and obtaining approvals, and tasks associated with the local contract approvals.</p> <p>(3 4) A Corrective Action Plan shall be issued by the Department for no longer than 24 months and shall include compliance dates for each milestone that describe the tasks and timeframe the jurisdiction needs to take to achieve full compliance by a final compliance date. The Corrective Action Plan shall include the penalties that may be imposed if a jurisdiction fails to comply by the final compliance date and may also include penalties for failing to meet milestones by the specified dates.</p> <p>(b) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to fulfill its responsibilities or obligations as required by this Chapter, but is unable to fulfill those responsibilities or obligations due to factors outside of its control then the Department may consider a hardship allowance for said jurisdiction.</p>	
4086	Clark, M LA County Solid Waste Mgt Committee	<p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) If a jurisdiction fails to enforce the requirements set forth in this chapter, and has not made a good faith effort to do so, the Department may take enforcement action against an entity pursuant to Section 18996.9 of this chapter and also enforcement action against the jurisdiction pursuant to this article after providing the jurisdiction with:</p> <ol style="list-style-type: none"> (1) Written documentation of its lack of appropriate enforcement action. (2) A request to hold a public hearing, which, to the extent possible, shall be held in the local or regional agency's jurisdiction, to determine whether 	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>or not the jurisdiction has failed to make a good faith effort towards compliance.</p> <p>(2) (3) A written request to take enforcement action against the entity pursuant to Article 14 of this chapter or evidence within 60 days that the entity is in compliance.</p> <p>(b) If the Department determines a good faith effort has not been made, the The Department may seek administrative penalties against the jurisdiction pursuant to Article 16 if the jurisdiction fails to take enforcement action as requested pursuant to subsection (a) (2).</p> <p>(c) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to enforce the requirements set forth in this chapter but is unable to fulfill those responsibilities or obligations due to factors outside of its control then the Department may consider a hardship allowance for said jurisdiction.</p>	<p>prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
4087	Clark, M LA County Solid Waste Mgt Committee	<p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) If the Department finds that a state agency is violating Article 4, 5, 7, 8, 10, 11, 12, or Article 13 of this chapter, then the Department may take the following progressive enforcement actions:</p> <p>(1) Issue a Notice of Violation requiring compliance within 90 days. If the state agency or state facility provides sufficient evidence that additional time is needed to comply, it may request, and the Department may grant an additional 180-day extension. The state agency or state facility extension request shall include:</p> <ul style="list-style-type: none"> (A) An explanation of why the violations have occurred, and all steps that have been taken to comply with this chapter. (B) An explanation as to why it cannot correct the violation by the compliance date. (C) A proposed set of tasks and milestones necessary for the state agency or state facility to comply and an explanation and justification of the proposed timeline. (D) Any additional information that supports the request to delay enforcement action. <p>(2) If the department issues a Notice of to a state agency or facility it shall include, but is not be limited to:</p> <ul style="list-style-type: none"> (A) A description of the violation and regulatory section that is the basis of the violation. (B) Identification of the actions the state agency or state facility shall take to correct the violation(s). (C) The timeframe in which each of the actions must be taken. (D) The actions in subsection (a)(3) of this section that the Department may take if the state agency or facility fails to comply <p>(3) If a state agency or state facility fails to comply with a Notice of Violation, the Department may take the following enforcement actions:</p>	<p>A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(A) List the state agency or state facility on the Organic Waste Recovery Noncompliance Inventory described in Section 18997.4 of this chapter.</p> <p>(B) Request that the Department of General Services (DGS) conduct an audit of the state agency or state facility for compliance with Public Contract Code (PCC) Section 12217(a).</p> <p>(C) Notify the Governor.</p> <p>(D) Notify the Legislature.</p> <p>(E) Unless prohibited by State law, following the Legislature notification, the Department may impose administrative civil penalties on a state agency or state facility found in violation of Articles 4, 5, 7, 8, 10, 11, 12 or 13. The penalty amount shall be equivalent to those listed in Article 16 for a similar entity.</p> <p>(4) The Department may not extend a compliance deadline in a Notice of Violation if the Department determines that the state agency or state facility has not made substantial efforts to comply with this chapter.</p> <p>(A) For the purposes of this section, "substantial effort" means that the state agency or state facility has taken all practicable steps to comply. Substantial effort does not include failure by the state agency or facility to take the necessary steps to comply, including, but not limited to, not providing adequate staff resources, failing to provide sufficient funding to assure compliance with the Chapter, or failure to adopt required policies.</p>	
4088	Clark, M LA County Solid Waste Mgt Committee	<p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) If the Department finds that a local education agency is violating this chapter, the Department may issue a Notice of Violation requiring compliance within 90 days. If the local education agency fails to comply with the Notice of Violation, the Department may list the local education agency or a non-local entity on the Organic Waste Recovery Noncompliance Inventory pursuant to Section 18997.4.</p> <p>(b) Unless prohibited by State law, following the Legislature notification, the Department may impose administrative civil penalties on a local educating Agency found in violation of this chapter. The penalty amount shall be equivalent to those listed in Article 16 for a similar entity.</p>	CalRecycle made a policy determination during this rulemaking to not impose penalties on local education agencies out of concern regarding limited funding for local education.
4089	Clark, M LA County Solid Waste Mgt Committee	<p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) The Department may take enforcement action against organic waste generators, including commercial edible food generators, haulers, and food recovery organizations and services, where a jurisdiction has failed to enforce this chapter and has not made a good faith effort to do so or where the entity is a non-local entity that is not a state agency or facility subject to enforcement under Section 18996.6 or a local education agency subject to enforcement under Section 18996.7.</p> <p>(b) If an entity has been found in violation, the Department shall:</p> <p>(1) For a first violation:</p> <p>(A) Hold a public hearing, which, to the extent possible, shall be held in the entity's jurisdiction, to determine whether or not the entity has failed to</p>	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the

Comment Number	Received From	Question/Comment	Response(s)
		<p>make a good faith effort towards compliance. If the Department determines that a good faith effort has not been made, the Department shall issue Issue a Notice of Violation (NOV) requiring compliance within 60 days.</p> <p>(B) If the violation continues after the NOV compliance date, the Department shall issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p> <p>(C) If the violation continues after the NOTC compliance deadline of 30 days, the Department shall commence action to impose a penalty on the entity no later than 90 days after the issuance of the NOTC.</p> <p>(2) For a second violation and all subsequent violations:</p> <p>(A) Issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p> <p>(B) If the violation continues after the NOTC compliance deadline, the Department shall commence action to impose a penalty on the entity no later than 90 days after its determination of the violation.</p> <p>(c) The Department may grant extensions to the compliance deadlines set forth in subsection (b) if it makes the following findings:</p> <p>(1) The entity is making timely progress toward compliance, and</p> <p>(2) The entity's failure to comply within the deadline is due to:</p> <p>(A) Extenuating circumstances outside its control, including a correction to a long term infrastructure or capacity change which requires a correspondingly longer length of time to achieve compliance. Examples of extenuating circumstances include acts of God such as inclement weather, and earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters, and delays in obtaining discretionary permits or other government agency approvals, but where the entity's actions or failure to act was not the cause of the delay</p> <p>(B) Limitations in infrastructure and the jurisdiction in which it is located is under a Corrective Action Plan (CAP) pursuant to Section 15.2 due to long term infrastructure or capacity deficiencies.</p> <p>(d) The Department shall provide the following information in any Notice of Violation or other enforcement notices:</p> <p>(1) The account name, name, or names of each person or entity to whom it is directed. Notices must go to the legally responsible party, such as a business owner, service account holder, property owner, etc.</p> <p>(2) The list and description of the violations of this chapter, including the section of this chapter being violated.</p> <p>(3) A compliance date by which the entity is to take specified action(s).</p> <p>(4) The penalty for not complying within the specified compliance date</p>	<p>prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(e) If an entity can demonstrate to the Department that it has made a good faith effort to comply with the requirements set forth in this chapter, but is unable to fulfill those responsibilities or obligations, due to factors outside of its control, then the Department may consider a hardship allowance for said entity.</p>	
4090	Clark, M LA County Solid Waste Mgt Committee	<p>Article 16 needs to be expanded to provide and discuss in detail the following: (a) The process and the time frame that an affected organic waste generator and/or an entity could appeal the Department's decision regarding compliance with the requirements of this chapter and the agency that the appeal must be filed with. (b) What are the allowable uses of revenue generated from the collected penalties and the agency with the decision-making authority for its use?</p>	<p>There are no provisions for appeals and a challenge of a final jurisdiction or Department order/penalty would be subject to judicial review. The use of penalty revenue is subject to state or local requirements outside of SB 1383.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
4091	Clark, M LA County Solid Waste Mgt Committee	<p>The monetary penalties for Property and Business Owners should not be based on established penalty severity levels. The penalties should have a maximum limit so as not to disproportionately penalize certified small businesses, non-profit organizations, or other entities for whom the penalties may cause substantial hardship.</p> <p>The monetary penalties for residential organic waste generators should be given their own category in Table 1 separate from all other organic waste generators. The penalties for residential organic waste generators should not be based on established penalty severity levels. The penalties should have a maximum limit so as not to disproportionately penalize economically disadvantaged communities in the state.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section, except in cases where these penalties may cause substantial hardship to certified small businesses, non-profit organizations, economically disadvantaged communities, or other applicable entities, and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b). Table 1 First, second and third violations be Level 0 PLEASE SEE LETTER TO VIEW THE COMMENTERS TABLE. THIS PROCESSOR WAS NOT ABLE TO INSERT IT INTO THIS COMMENT MATRIX. (b) Consistent with the requirements prescribed in Government Code Sections 53069, 25132 and 36900, the penalty severity levels are as follows:</p>	<p>A residential generator may be imposed penalties pursuant to section 18984.9(a).</p> <p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties.</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1) For a violation classified as Level 1, the amount of the base penalty may be \$50–\$500 per violation.</p> <p>(2) For a violation classified as Level 2, the amount of the base penalty may be \$250–\$1000 per violation.</p> <p>(3) For a violation classified as Level 3, the amount of the base penalty may be \$500–\$2,500 per violation.</p> <p>(c) For the purposes of subsection (a), revoking, suspending, or denying a permit, registration, license, or other authorization shall be considered stricter than the penalties in this section.</p> <p>(d) For a violation classified as Level 0, certified small businesses, non-profit organizations, residents of economically disadvantaged communities, and other applicable organic waste generators may submit an application to the Department or to the jurisdiction imposing penalties requesting the penalties to be waived due to substantial economic hardship.</p>	<p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p>
4148	Clifford, G, Athens Services	<p>Primary Issue: Increase the Contamination Standard from 10% to 25% for MW MRFs Mixed Waste Material Recovery Facilities are essential to achieve the GHG targets. As I have described above, Athens is at the forefront of implementing innovative refuse and recycling technology, having opened our Sun Valley facility in 2017 at an investment of \$ 50 million to achieve and go beyond the state’s previous recycling and diversion mandates. Section 17409.8.5.8, as proposed to be amended, will render our state-of-the-art facility and other facilities in our network, largely unusable unless the percentage of 10% contamination is changed to 25%. The Sun Valley MRF took 12 years to permit, plan and build. Many existing MRFs are land restricted from expansion or limited by building footprint. Therefore the future of recycling may require MRFs “ built in series “ to accomplish recycling mandates . Some MRFs may do the “initial cut “ at recycling and other MRFs potentially could handle the “ finishing work “ . Introducing mandates of contamination levels restrict the ability to creatively address recycling mandates and imperil the investment in existing infrastructure . We urge that CalRecycle provide maximum flexibility to achieve the standards without restrictions or mandates if it can be demonstrated</p>	<p>CalRecycle has revised this section to phase in the acceptable level. The change phased in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal from 10 percent by 2022 to 20 percent on and after 2022 and 10 percent on and after 2024. This change was necessary to allow entities time to plan and make necessary adjustments to their operations. SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. In order to achieve these targets, regulatory limitations for processing organic waste must be implemented.</p> <p>Section 17409.5.8 is a cleanliness standard put on organics removed from the Mixed Waste Collection Stream and Source Separated Organics Collection stream sent for recovery. In addition to meeting a 50/75% recovery for organic waste, organic waste sent to a secondary facility (compost/In-Vessel Digestion) for recovery it needs to be less than 20% of incompatible material on and after 2022 and 10% on and after 2024, otherwise, there are limitations on where this material can be sent to. Material with more than 20% of incompatible material on and after 2022 and 10% on and after 2024 must be sent to a Transfer/Processing Facility that can meet 1749.5.8 or a compost/in-vessel digestion facility that disposes of no more than 20% of organic material on</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>that companies are building MRF infrastructure that is part of an eco system that utilizes existing investments and new investments. CalRecycle’s Sec. 17409.8.5.8 proposed language is one of the key issues at the heart of the regulation’s inflexibility. Source Separated Organics “SSO” and Mixed Waste Organics “MW O MRF” collection systems are expected to obtain the same – 10% maximum residual; seemingly equal treatment under the regulation. But in fact MW MRFs are severely punished and in the end restrained from accomplishing the GHG target of 50% (by 2020) and 75% (by 2025). This impossibly low 10% ceiling, in effect, would make MW O collection systems and therefore their processing facilities obsolete without any meaningful analysis or legal authority. In fact, the Legislature was clear in granting legal authority for a “target” of “50% and 75%”, not a “mandate” on a particular type of facility. And the law did not intend in any way to require a facility to recycle 90% of organics. Further, there was no mandate placed on any individual jurisdictions. This section effectively penalizes jurisdictions utilizing a MW MRF facility.</p> <p>Furthermore, the “Initial Statement of Reasons” does not demonstrate via economic or environmental analysis the need for, or the science behind, a 10% standard of contamination to meet the GHG targets. In our reading of the “Technical, Theoretical and Empirical Study, Reports or Documents, we could not find any evidence that a 10% contamination standard is necessary or justified. If CalRecycle has such an analysis, please provide it to us for our review and comments. In fact, a 10% standard WILL MOST CERTAINLY BE at least 15% too low for a MW O MRF. We would therefore urge an amendment to allow flexibility in the standards to achieve recycling initiatives for the reasons mentioned. A flexible contamination standard in this section would greatly assist in:</p> <ul style="list-style-type: none"> ● Meeting the 50% and 75% GHG targets and keeping the regulations within the bounds of the legal authority given under SB 1383 of 2016; ● Doing no harm to existing mixed waste recycling MRF facilities; ● Preserving local jurisdictions’ AB 939 50% plus recycling rates, especially in light of the China Sword; and ● Providing overall balance on consumer rates while achieving the statewide GHG targets 	<p>and after 2022 and 10% on and after 2024 in their residual waste stream. The contamination limit is to ensure that dirty material is not being sent to secondary facilities (compost/in-vessel). Meeting the incompatible limit might be burdensome to the MRF but sending dirty material to a Compost Facility or In-Vessel Digestion facility puts the burden on them to further clean that material.</p>
6344	Clough, A., City of Emeryville	Particularly concerning is the amount of time it might take to fulfill requirements for monitoring, enforcing and reporting. Currently we have 60% of a single staff person working on all waste issues at the City" of Emeryville.	A change to the regulatory text is not necessary. The reporting and recordkeeping requirements are the minimum amount needed to allow CalRecycle to ensure a jurisdictions compliance with the Chapter. The recordkeeping requirements also assist a jurisdiction in verifying and tracking their own progress and if they are complying with the law. The Chapter allows a jurisdiction the flexibility to fulfill its oversight role by adopting their own enforceable ordinances that are consistent with the requirements of the Chapter.
6345	Clough, A., City of Emeryville	Another specific comment staff would like to highlight is Section 18984.8, placement of appropriate labels on collection containers. It is stuff's request that a	Thank you for the comment regarding the additional time, great cost savings, and easier compliance with the container color and label requirements. That comment is in support of current language.

Comment Number	Received From	Question/Comment	Response(s)
		<p>jurisdiction designee, such as the hauler, be allowed to affix container labels at the time of container delivery, as is current practice.</p>	<p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>he current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to</p>

Comment Number	Received From	Question/Comment	Response(s)
			keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.
6003	Coelho, L., SCS Engineers	Question about the inclusion of building materials in the definition of organics and paper products: Is this definition suggesting the paper backing be removed from building insulation?	CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of “building insulation and panels” from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.
6004	Coelho, L., SCS Engineers	Regarding CalGreen Standards: Is the intention to allow credit for recycling the organic portion of C&D materials to count toward the reduction targets?	CalRecycle is not enforcing reduction targets on individual jurisdictions.
6035	Coffaro, D., Second Harvest Food Bank of Orange County	Regarding this record keeping requirement - "the established frequency that food will be collected." The commentor notes that "Frequency can vary based on inventory, season, weather conditions, consumer demand, etc. As a result, we don't believe that tracking this metric would be practicable or particularly beneficial."	A frequency for the collection or self-haul of edible food must be established and documented. Maintaining a record of the established a frequency that edible food is collected or self-hauled is necessary because this information can be used to help jurisdictions determine if a commercial edible food generator is recovering the maximum amount of edible food that would otherwise be disposed. CalRecycle would like to clarify that nothing prohibits a food recovery organization or a food recovery service and a commercial edible food generator from establishing more than one frequency to account for changes in the amount of edible food available. For example, a local education agency could have one established frequency for collections during the school year, and a different established frequency during the summer months when school is not in session and there is less food to recover.
6036	Coffaro, D., Second Harvest Food Bank of Orange County	Regarding this record keeping requirement - "An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered." The commentor notes "We recommend maintaining a single metric – pounds – to avoid the confusion of multiple measures and creating the need to translate/reconcile across different metrics."	CalRecycle agrees with this comment and removed the following language from the regulatory text: “An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered.” By removing this language, all commercial edible food generators will be required to track pounds of food recovered. This revision will eliminate confusion of multiple metrics, and also make commercial edible food generator recordkeeping more consistent as they will all be required to track pounds.
6037	Coffaro, D., Second Harvest Food Bank of Orange County	Regarding "(a) A food recovery organization or service that collects or receives 6 tons or more of edible food from edible food generators per year shall maintain a record that includes all of the following:" The commentor notes: "Our perspective is that 6 tons is a relatively low threshold; as such, it might be better (for consistency) to eliminate the threshold and track for all food generators. This could be particularly relevant in context of tracing food-borne illness"	While some commenters requested that the threshold be increased from 6 tons to 12 tons, other stakeholders recommended removing the threshold completely so that any food recovery organization or food recovery service that contracted with, or had a written agreement with a commercial edible food generator would be required to maintain records and report to the jurisdiction. Another commenter further supported the recommendation to eliminate the 6-ton recordkeeping threshold by stating that the primary focus relative to edible food recovery must be the safe handling of food and protection of public health and safety. The commenter further noted that the ability to track the source of a food borne illness outbreak rests on the ability to trace food product throughout the food supply chain. By allowing a food recovery organization to avoid maintaining a record of where the food was obtained, a serious gap in the investigative

Comment Number	Received From	Question/Comment	Response(s)
			<p>traceability process is created. The commenter continued their argument by stating that in their many years of experience working as a food recovery organization, food recovery services and food recovery organizations that are not large enough or are incapable of maintaining a record of the source of the donated food are likely incapable of consistently handling and distributing donated food safely.</p> <p>CalRecycle carefully reviewed each comment that requested to increase the threshold and each comment that requested that the threshold be removed. Upon review and evaluation, a determination was made to remove the recordkeeping threshold for the following reasons. 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 maintain a record 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 the commercial edible food generator recordkeeping section of the regulations.</p> <p>Although all commercial edible food generators are required to maintain records of the food that is recovered from them, in a previous draft of the regulations, not all food recovery organizations and food recovery services were required to maintain records. In a previous 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 commercial edible food generators.</p> <p>The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>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.</p> <p>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 the 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% edible food recovery goal. 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.</p>

Comment Number	Received From	Question/Comment	Response(s)
6038	Coffaro, D., Second Harvest Food Bank of Orange County	Regarding edible food recovery services and organizations - "(4) The total number of meals served per month if applicable. " the commentor notes: "For consistency, we recommend sticking with tracking pounds vs. meals (which required conversion factors and would make tracking more challenging)."	The language regarding total number of meals served was removed from the regulatory language.
6039	Coffaro, D., Second Harvest Food Bank of Orange County	Regarding this jurisdiction reporting requirement "(A) A jurisdiction shall require food recovery organizations and services that are located within the jurisdiction and collect or receive 6 tons or more of edible food per year to report the amount of edible food recovered by the service or organization in the previous calendar year to the jurisdiction." The commentor notes: <ul style="list-style-type: none"> • We recommend that reporting occur with the food generator/donor for consistency and ease of regulatory oversight; if reporting flows from the food recovery organization up to the local jurisdiction, then up to the State, reconciliation with the food generators' output would be very difficult. • Food generator reporting would be provided to the State, local jurisdictions and food recovery organizations. 	It is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.
6040	Coffaro, D., Second Harvest Food Bank of Orange County	Food generator reporting would be provided to the State, local jurisdictions and food recovery organizations.	It is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.
6041	Coffaro, D., Second Harvest Food Bank of Orange County	Regarding this jurisdiction reporting requirement "(A) A jurisdiction shall require food recovery organizations and services that are located within the jurisdiction and collect or receive 6 tons or more of edible food per year to report the amount of edible food recovered by the service or organization in the previous calendar year to the jurisdiction." The commentor notes: <ul style="list-style-type: none"> • Food recovery organizations should track and make records available upon request by the State (in order for the State to reconcile with food generator reporting as part of an audit or compliance review). 	A jurisdiction could request the records of a food recovery organization or service to reconcile or verify the records of a specific commercial edible food generator. The regulations specify that commercial edible food generators are subject to inspection, and since an "inspection" is defined in Section 18982 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 is critical for jurisdictions to monitor commercial edible food generator compliance as is required in Section 18991.1 (a)(3).
6042	Coffaro, D., Second Harvest Food Bank of Orange County	Regarding this jurisdiction reporting requirement "(A) A jurisdiction shall require food recovery organizations and services that are located within the jurisdiction and collect or receive 6 tons or more of edible food per year to report the amount of edible food recovered by the service or organization in the previous calendar year to the jurisdiction." The commentor notes: <ul style="list-style-type: none"> • As with Section 10.5, we recommend eliminating the 6 ton threshold. 	While some commenters requested that the threshold be increased from 6 tons to 12 tons, other stakeholders recommended removing the threshold completely so that any food recovery organization or food recovery service that contracted with, or had a written agreement with a commercial edible food generator would be required to maintain records and report to the jurisdiction. Another commenter further supported the recommendation to eliminate the 6-ton recordkeeping threshold by stating that the primary focus relative to edible food recovery must be the safe handling of food and protection of public health and safety. The commenter further noted that the ability to track the source of a food borne illness outbreak rests on the ability to trace food product throughout the food supply chain. By allowing a food recovery organization to avoid

Comment Number	Received From	Question/Comment	Response(s)
			<p>maintaining a record of where the food was obtained, a serious gap in the investigative traceability process is created. The commenter continued their argument by stating that in their many years of experience working as a food recovery organization, food recovery services and food recovery organizations that are not large enough or are incapable of maintaining a record of the source of the donated food are likely incapable of consistently handling and distributing donated food safely.</p> <p>CalRecycle carefully reviewed each comment that requested to increase the threshold and each comment that requested that the threshold be removed. Upon review and evaluation, a determination was made to remove the recordkeeping threshold for the following reasons. 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 maintain a record 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 the commercial edible food generator recordkeeping section of the regulations.</p> <p>Although all commercial edible food generators are required to maintain records of the food that is recovered from them, in a previous draft of the regulations, not all food recovery organizations and food recovery services were required to maintain records. In a previous 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 commercial edible food generators.</p> <p>The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>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.</p> <p>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 the 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% edible food recovery goal. In addition, a complete data set can be used by jurisdictions to help them assess the impact of</p>

Comment Number	Received From	Question/Comment	Response(s)
			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.
3011	Coleman, J., Los Rios Community College District	I also want to know more about the SB 1383 NOP. Can you explain more about the adoption of the regulation and again if community colleges are affected or exempt? I have viewed a few items on the CalRecycle website, but wanted to have more information for its impact to our district. Perhaps it would affect the food service areas of each campus (cafeteria)? The groundskeepers green waste too? I do not believe the student classes generate much in the way of organic waste along with the employee offices, etc.	Community colleges are included in the definition of "non-local entity" and would be subject to applicable parts of the proposed regulations.
3013	Consunji, City of Downey	It is not feasible to determine and identify individual generators that contaminate a route unless containers are checked individually. Our residential curbside program utilizes automated side loading vehicles and covered bins. Adhering to the proposed legislation would require route drivers to physically examine hundreds of containers on each route on a daily basis and additional staffing resources to manage the process of notices. City recommends at a minimum to exempt residential routes from this requirement.	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3015	Consunji, City of Downey	As in the previous comment, it is a significant administrative burden to determine individual generators that contaminate a route. Routes would need to be interrupted to inspect individual bins along this stop resulting in slower service levels and increased costs. City recommends at a minimum exempting single-family and multi-family residential routes from this requirement.	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3014	Consunji, D., City of Downey	<p>City services over 63,000 containers every week. A quarterly route review for all routes in the City is not possible without the addition of significant staffing and funding. The City has approximately 5 residential routes. To review those quarterly, City would have to inspect 1 residential route per day, with up to 21,000 containers per route. It is not feasible for the solid waste collection drivers to perform this task. To incorporate this additional task would require a contract amendment resulting in significant additional costs to meet this requirement. City recommends at a minimum to exempt residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. CalRecycle also revised the regulations to allow for annual.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>

Comment Number	Received From	Question/Comment	Response(s)
3016	Consunji, D., City of Downey	In the current draft, a tremendous amount of effort is placed on Enforcement and Recordkeeping, which will require the City to divert scarce funds and resources away from initiatives, to an enforcement based system. The City recommends that CalRecycle reduce the burden of enforcement and record keeping so that the City may prioritize program development.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
3136	Coss, R., Orange County Sanitation District	<p>Article 2 Section 18983.1(b)(6)(B)(1) – This section delineates activities which are deemed to be “recovery” and thus a reduction in landfill disposal. This section includes biosolids land application and references Appendix B of the federal part 503 regulations, which stipulate technology and other standards for both Class B and Class A pathogen reduction necessary for land application. The language in this section of the draft regulatory text, however, specifies only anaerobic digestion and compost as recovery activities. Appendix B provides detail on a suite of Class B and Class A pathogen reduction technologies, including far more options for achieving each Class, all of which are deemed equivalent to anaerobic digestion or composting. None of the treatment processes delineated in Appendix B would generate methane. The greenhouse gas reduction achieved via land application rather than landfilling is the same regardless of the technology employed to meet the pathogen reduction and vector attraction reduction criteria. The methane reduction is realized in the avoidance of landfilling not by the process utilized to treat the biosolids. While it is true that most biosolids in California undergo either anaerobic digestion and/or composting, other compliant technologies are also utilized and entities should not be penalized for using them.</p> <p>We strongly urge CalRecycle to replace the words “... anaerobic digestion or composting...” With “.... one of the processes,”. In support of this argument, please refer to the BEAM model at this link: https://casaweb.org/wp-content/uploads/2015/12/1-BrownetaLEST-GHGCalculator10.pdf which has been adopted by the Canadian Ministries of the Environment as a means to quantify the climate change mitigation benefits of biosolids land application.</p>	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
3137	Coss, R., Orange County Sanitation District	Article 2 section 18983.1(c) – Includes “...or any other disposal of waste as defined by Section 40192(c) of the Public Resources Code.”, in the definition of Landfill. This is a very broad definition and seems to limit the disposition to organic waste deposited on land. We believe this is an overly restrictive definition and will create confusion because of the inclusion of technologies other than landfilling in the definition of landfill (by virtue of the cross-reference to PRC Section 40192(c)). We request that CalRecycle clarify the scope of this definition. (see comment 3 below as well).	It is unclear from the comment what “technologies” the commenter is referring to or what clarity they are seeking as to the scope of this section. To the extent the comment is addressing land application of compostable material, that activity is specifically identified as a reduction in landfill disposal if it meets the conditions of the section. To the extent the comment is addressing surface disposal sites at wastewater treatment plants, that would be considered landfill disposal under this section unless it meets the requirements of land application of biosolids under this section or qualifies as an alternative technology that constitutes a reduction in landfill disposal under Section 18983.2.
3138	Coss, R., Orange County Sanitation District	Article 6 Section 18987.2(a)(1) – The language requires all biosolids produced at any wastewater treatment plant to be treated via anaerobic digestion and/or composting and sent for land application. In addition to other treatment technologies as mentioned in comment 1 above, there are also other end uses employed which would be disallowed under this requirement. California has two incinerators and roughly five surface disposal sites located at wastewater treatment	CalRecycle has determined a regulatory language change in response to this comment is unnecessary. The overall goal of the regulations is to reduce methane emissions and the compliance options are consistent with that goal. CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO ₂ e per short ton organic waste

Comment Number	Received From	Question/Comment	Response(s)
		<p>plants. None of the sludge produced at those facilities would ever be transported off-site and would neither be landfilled or land applied and thus would seem beyond the purview of these regulations. It would be cost prohibitive to require these facilities to change technology and management practices.</p> <p>Similarly, it is imperative that all treatment options in 40 CFR part 503 Appendix B (Class A and Class B) be allowed and viewed as “recovery” (not just anaerobic digestion and composting). Treatment technologies are themselves dynamic and emerging resulting in alternative treatment and final disposition of biosolids. For example, thermal processes can produce energy and biochar. These technologies should be encouraged, not excluded as the language in this section appears to do. Dried biosolids have long been used effectively as alternative fuel at cement kilns in place of fossil-based fuels. We recommend all treatment technologies specified in Appendix B of 40 CFR part 503 which result in land application or land reclamation should be counted as a reduction in landfill disposal. Existing biosolids management practices whereby biosolids do not leave the site should be excluded from these regulations. And emerging technology which may result in energy production (thermal) or avoid fossil-based fuels (cement kilns), but which do not send any biosolids to a landfill should be encouraged.</p> <p>Additionally, our understanding is that CalRecycle does not intend (and lacks the authority) to ban any organic waste stream from landfills. Rather, future use was to be negotiated between a wastewater plant and their jurisdiction of origin. We request that these regulations be revised to explicitly articulate that approach.</p>	<p>processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
3139	Coss, R., Orange County Sanitation District	<p>Article 9 Section 18990.1(c)(3) seems inconsistent with the language added to s. 18990.1(a & b) which restricts local ordinances such that they may not impede organics recycling. Sub (c)(3) seems to supersede that restriction. Clarity or revision of this language is requested to ensure an open market across California for organics recycling.</p>	<p>A. The requested changes to the regulatory text are not necessary. However, CalRecycle is adding additional language to Section 18990.1(b)(1) to further clarify its meaning in light of comments received regarding it. Article 9, Sections 18990.1 (a) and (b) are not contradictory. 18990.1 (a) clarifies that it does not limit a jurisdiction in adopting more stringent standards than the ones outlined in this chapter. The purpose of the specific limitations set forth in paragraphs 1-5 of 18990.1 (b) are to ensure that jurisdictions do not impose restrictions on the movement and handling of waste and waste-derived recyclables that would interfere with or prevent meeting the organic waste recovery targets established in SB 1383.</p> <p>B. Article 2, Section 18983.1 (b)(6)(b) clarifies that land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards. 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. While this regulation defines land application as 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 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. The additional language will ensure that such restrictions can be reviewed on a case-by-case basis to determine if they are actually necessary and tailored to</p>

Comment Number	Received From	Question/Comment	Response(s)
			protect the public health and safety, or if they are actually unnecessary and overbroad restrictions.
3140	Coss, R., Orange County Sanitation District	<p>Article 12 Section 18993.1(f) defines eligible recovered organic waste products which satisfy the procurement requirements of s. 18993.1(e).</p> <p>i. Sub (f)(1) stipulates that compost is an eligible product. We assume this includes biosolids compost but request explicit confirmation of that. Furthermore, there are many other biosolids products which should be considered as eligible recovered organic waste products. A jurisdiction should be given broad latitude in meeting this requirement and all biosolids products meeting the land application requirements of 40 CFR part 503 should be eligible.</p>	<p>The current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target.</p> <p>CalRecycle disagrees with adding “other biosolids products”. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
3141	Coss, R., Orange County Sanitation District	<p>Sub (f)(2) stipulates that renewable transportation fuel is also an eligible recovered organic waste product. While we support the intent of this requirement to help create end markets, we question the definition of Renewable Transportation Fuel in Article 1 18982(a)(62), which requires the fuel be derived “...from organic waste diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste.” Does this exclude renewable transportation fuel which is derived from sewage sludge anaerobic digestion alone, without co-digestion? We trust that is not the intent, since anaerobically digesting sewage sludge, land applying the resultant biosolids, and producing low carbon transportation fuel is certainly consistent with the requirements of SB 1383 and these regulations. All sewage sludge which is anaerobically digested could be considered to be diverted from landfills. Please clarify whether the intent of the language is to include all sewage sludge and co-digested materials under this eligibility requirement. Alternatively, we respectfully request this definition be amended to read: “...gas derived from organic waste processed in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23.”</p>	<p>CalRecycle disagrees with the commenter’s argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction’s procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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. For the reasons noted above, gas generated from the inflows of a sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.</p>
3142	Coss, R., Orange County Sanitation District	<p>Sub(f)(2) – We also request that any other beneficial uses of methane be deemed eligible to qualify as fulfilling the procurement obligations. This includes pipeline injection, on-site power production and exported electricity, as well as the production of renewable transportation fuel. All should be deemed to be recovered organic waste products and eligible to satisfy the procurement requirements.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
3143	Coss, R., Orange County Sanitation District	2014 Waste Characterization Table – Please confirm that this Table has been updated to include biosolids data from 2014, since this serves as the baseline upon which compliance with the draft regulations is based.	The comment is not directed at regulatory text or the process CalRecycle followed during the rulemaking. Comment noted. Questions regarding the 2014 waste characterization study can be addressed and answered outside the regulatory process.
1020	Creter, Maria SGVCOG	Infrastructure Capacity: As mentioned previously, the State of California currently lacks the capacity to meet the needs for new organic waste processing. Many municipalities have expressed concerns over the ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure across California.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were

Comment Number	Received From	Question/Comment	Response(s)
			established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
1021	Creter, Maria SGVCOG	Additionally, capacity is limited where the infrastructure does exist. While the regulations provide a few years to implement the programs, our member agencies are heavily concerned that there is insufficient time given to develop, evaluate, and permit new facilities.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
1022	Creter, Maria SGVCOG	Our member agencies continue to seek solutions to address the need for substantial public sector funding. The issue of insufficient public sector funding continues to be one of the major challenges our member agencies face in the effort to implement new organic waste diversion programs. For example, proceeds from “cap-and-trade” programs can be channeled to offset the costs for developing additional organic recycling infrastructure.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
1023	Creter, Maria SGVCOG	it should be noted that much of the local needs would not be addressed even if additional appropriations were made to the Waste Diversion Program. Our member	Refer to Public Resources Code Section 42652.5(b) which states that a local jurisdiction may charge and collect fees to recover the costs associated with complying with these regulations.

Comment Number	Received From	Question/Comment	Response(s)
		agencies and other local municipalities continue to work diligently to address the need for funds to undertake prescribed activities, such as providing public education and updating bins and labels.	
1024	Creter, Maria SGVCOG	Enforcement: The proposed regulations allow for Corrective Action Plans and establish extended timelines for achieving compliance. SGVCOG deeply appreciates the addition of a pathway to compliance, as this considers the infrastructure challenges our member agencies may face.	Comment noted. Comment is supporting regulatory text, not a change in language.
1025	Creter, Maria SGVCOG	Penalties: Our member agencies request that CalRecycle adopt penalties in a second set of regulations to take effect at a future date. The penalties outlined in the proposed regulations appear to be pre-mature. It is recommended that CalRecycle should work through the programmatic scheme prior to implementing an appropriate set of penalties, especially due to the fact that programs have until 2022 to be implemented.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
1026	Creter, Maria SGVCOG	Procurement: The proposed regulations outline new procurement requirements that mandate local governments to purchase recovered organic waste products. These requirements may result in substantial additional costs to local municipalities that are in addition to the costs needed to comply with the extensive programmatic requirements of the proposed regulations.	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "substantial additional costs."
1027	Creter, Maria SGVCOG	Additional costs resulting from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Article XIII B, section 6(a), as the regulations would impose a new program on cities and neither the proposed regulations nor the Initial Statement of Reasons identifies a clear state funding source	CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a

Comment Number	Received From	Question/Comment	Response(s)
			<p>fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
1028	Creter, Maria SGVCOG	Procurement -The SGVCOG requests that CalRecycle work to develop markets for such materials in a second regulatory proceeding.	<p>CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p> <p>However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
1029	Creter, Maria SGVCOG	SGVCOG believes that the proposed regulations may place a disproportionate burden on local governments to achieve the desired short-lived climate pollutant emissions reductions.	<p>Comment noted. Commenter is not suggesting a specific change to the regulatory language but is expressing an opinion on regulatory burden. The SB 1383 statute gives clear authority to CalRecycle to place requirements on jurisdictions as a central component of achieving the organic waste diversion goals.</p>
1030	Creter, Maria SGVCOG	Such proposed regulations may rely on excessive reporting, which can further add to the expected high cost of implementing the new requirements for all affected stakeholders.	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.</p>
1006	Cross, Kathryn, Orange County Environmental Health Division; Anderson, Jeff,	1. Remove Section 18083(c) At least once per quarter, the EA shall oversee a minimum of one (1) measurement as described in 14 CCR Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1, during an inspection required in subdivision (a).	<p>CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for</p>

Comment Number	Received From	Question/Comment	Response(s)
	West Covina Community Development Dept; Sloan, Lisa, Santa Barbara County Public Health Department, Environmental Health Services; Sanford, Karen, Kern Public Health Services D	a. The sections listed (14 CCR Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1) give LEAs authority to require operators to perform measurements and load checking, therefore not needed in Section 18083.	statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1007	Cross, Kathryn Orange County Environmental Health Division; Anderson, Jeff, West Covina Community Development Dept; Sloan, Lisa, Santa Barbara County Public Health Department, Environmental Health Services; Sanford, Karen, Kern Public Health Services Dep	b. Section 18083(c)The new section creates a mandate and a performance standard for the LEA, binding the LEA to a specific amount of time and effort to review one action at a facility. Current measurement time is estimated to be 3-5 hours.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1008	Cross, Kathryn, Orange County Environmental Health Division; Anderson, Jeff, West Covina Community Development Dept; Mendoza, Maria, Alameda County Department of Environmental Health; Sanford,	c. Section 18083(c)- This section does not consider LEA determination of compliance of a facility unlike other sections that allows the LEA the option to consider previous observations. This is important because even if a facility is determined to be consistently in compliance with measurement and load checking, the LEA is still mandated to observe this measurement quarterly, instead of being able to put time and resources to less compliant facilities.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.

Comment Number	Received From	Question/Comment	Response(s)
	Karen, Kern Public Health Services Department; Wells, John, Gle		
1009	Cross, Kathryn, Orange County Environmental Health Division; Anderson, Jeff, West Covina Community Development Dept; Mendoza, Maria, Alameda County Department of Environmental Health; Sanford, Karen, Kern Public Health Services Department; Lucas, Kristian	Revise Section 18984.11(a)(3)(A)(1) The jurisdiction, or its authorized hauler, demonstrates to the Solid Waste Local Enforcement Agency that less frequent collection than required by Section 17331 of Title 14 of the California Code of Regulations will not result in the propagation of vectors or other public health and safety, or nuisance issues. a. Section 18984.11(a)(3)(A)(1) - Section 18984 identifies the Solid Waste Local Enforcement Agency as the designee to allow less frequent collection whereas Section 17331 designates the Local Health Officer. This section conflicts with the section that it cites.	Section 18984.11 was revised to enforcement agency.
1010	Cross, Kathryn, Orange County Environmental Health Division; Anderson, Jeff, West Covina Community Development Dept; Sloan, Lisa, Santa Barbara County Public Health Department, Environmental Health Services; Sanford, Karen, Kern Public Health Services Dep	Section 18984.11(a)(3)(A)(1) - As an LEA, we do not wish to be the designee for less frequent collection and would like it to remain a Health Officer duty.	Section 18984.11 was revised to enforcement agency.
4147	CRRC South	Prescriptive Approach CalRecycle has concluded that the preferred means of fulfilling the requirements of SB 1383 is to develop a rather prescriptive approach to regulating the handling of organic material. The approach embodied in these regulations departs significantly	Comment noted. CalRecycle disagrees that the cost presented in the SRIA, and the subsequent estimates provided in the Appendix to the ISOR, "vastly underestimate the true cost of implementation." In the Appendix, CalRecycle presented a cost sensitivity of three scenarios. Each scenario is based on a projected disposal level. CalRecycle projected cost based on the most

Comment Number	Received From	Question/Comment	Response(s)
		<p>from traditional methods of regulating these activities and represents a wholesale shift from what had been a highly effective system emphasizing local control and flexibility, to one that, we fear, is unlikely to yield much in the way of tangible benefit. This approach will also be unduly expensive to implement. We believe the cost study Standardized Regulatory Impact Assessment (SRIA) undertaken by CalRecycle vastly underestimates the true cost of implementation, at the same time it overstates perceived economic benefits.</p>	<p>conservative projections of disposal (highest estimates of disposal and required recover of 289 million tons). CalRecycle also provided cost sensitivity for the economic value of recycled commodities and costs for transporting recovered material to market. CalRecycle relied upon the most conservative estimates for each of these sensitivity analyses (the highest estimate of transportation costs and lowest value for recycled commodities). The general comment that CalRecycle understates costs was made by several commenters but failed to specify how costs were underestimated or recommend an alternative method for estimated costs. Regarding comments that cite specific areas where the commenter believes costs are underestimated, those comments are addressed in separate responses.</p>
4148	CRRRC South	<p>Current Facility Impact We are also concerned about the impact these regulations will have on the existing network of AB 939 waste diversion facilities, all of which handle some element of organic material. Many of these facilities, including (but by no means limited to) mixed waste processing facilities, contribute measurably to current waste diversion efforts. Most were privately financed, and many have not yet been fully amortized. To the extent that the regulations would impose unrealistic performance requirements on these facilities, they are at risk of underutilization or even premature closure, thereby “stranding” the considerable investment made in them. This is hardly the proper signal for the state to send, particularly when by CalRecycle’s own estimates, we are more than 100 facilities shy of the inventory that will be needed to process the additional amount of organic material we hope to divert from landfills.</p>	<p>The regulations do not place direct diversion performance goals on facilities. Instead, the regulations require jurisdictions to route certain material to high-diversion organic waste processing facilities if they use certain types of collection services. The requirements are on the jurisdiction. Facilities are not subject to enforcement under the regulations for not meeting the requirements for a high-diversion organic waste processing facility.</p>
4149	CRRRC South	<p>Future Facility Development We also are concerned about the chilling effect this shift may have in terms of facility development and financing going forward. The regulations will send an important signal to lenders about the risks entailed in financing facilities in the future. Their confidence in making these loans will be dramatically reduced if they believe that a change of law in this form can so profoundly affect the financial viability of a facility by artificially cutting short its useful life. At a minimum, then, these regulations should acknowledge the vital role of the AB 939 network of facilities by essentially “grandfathering” them and allowing for their continued operation for a reasonable period of time, perhaps 10 years or more.</p>	<p>The regulations do not subject facilities to enforcement for not achieving diversion percentages. The regulations place affirmative facility routing requirements on jurisdictions. If a jurisdiction is concerned about how routing to high-diversion organic waste processing facilities will impact infrastructure, it could consider utilizing a collection system that doesn't require such routing.</p>
4150	CRRRC South	<p>Safe Harbor A separate but related concern of ours has to do with liability and enforcement generally, and the absence of some form of safe harbor or immunity for regulated entities and the jurisdictions they serve if they are unable to meet the requirements of the regulations due to circumstances over which they have little or no control. For example, if we have learned anything as a result of the recent import rules adopted by China and much of the rest of Southeast Asia, it is that in planning and implementing waste recycling policies, we cannot safely presume the sustained availability of resilient markets for recovered materials. This is no less true in the case of organics, for which adequate markets do not currently exist in many parts of</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019: “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</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>California. When coupled with the absolute certainty that the required network of new facilities will not be brought on line within the time frames embodied in the regulations and in SB 1383 itself, one is compelled to ask why there is no allowance made for the short-term failure we all see coming?</p>	<p>mixed waste processing systems provided that the receiving facilities demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.”</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>“With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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.</p> <p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additionally flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections 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)...”</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>“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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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.</p> <p>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.</p> <p>Therefore, in order to meet the recovery targets specified in statute and the state’s ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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.”</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be “protected” or provided a “safe-harbor.” The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p>
4151	CRRRC South	<p>Good Faith Effort Nothing in the underlying statute prevents CalRecycle from addressing the lack of infrastructure and markets and the related enforcement issues; indeed, you are directed by the year 2020 (Public Resources Code Section 42653(a)) to evaluate progress (or lack thereof) in these areas. It logically follows that if the assumed favorable conditions do not materialize, the regulated entities should not be made</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to</p>

Comment Number	Received From	Question/Comment	Response(s)
		to bear the liability for that failure. We are less concerned with whether relief is cast in the form of an outright exemption, as a form of immunity from enforcement, or as a determination mirroring the “Good Faith Effort” provisions of the Integrated Waste Management Act, than we are with the fact that the regulations are relatively silent on this point. What is important is the principle that relief should be available under such extraordinary circumstances. The regulations do not effectively deal with this issue. If this issue is not satisfactorily addressed, it will lead to all kinds of finger pointing and conflict, most likely encouraging litigation and implicating franchise relationships between jurisdictions, collectors, and facility operators. These issues must be confronted now and cannot be swept under the rug.	consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
4152	CRRC South	Section 18982. Definitions Generally, we suggest having uniformity in definitions with other statutes in the Public Resources Code.	
4153	CRRC South	The definition of “compostable material” needs to be modified as textiles and carpets contaminate organics recycling.	It is unclear from the comment how changing the definition of "compostable material" will avoid contamination. Fully organic textiles and carpet are compostable based on CalRecycle's understanding.
4154	CRRC South	The language in Article 10, Section 18991.1 (a)(25), defined above, should be amended to exempt non-profits: charitable religious, veterans, and community organizations that occasionally acquire donated edible food from food generators for their membership. It is not prudent or conceivable to require donated food for this purpose to be regulated beyond the requirements of the Health and Safety Code.	CalRecycle is unable to interpret the precise meaning of this comment since Section 18991.1 (a)(25), does not exist in the regulations. However, CalRecycle would like to clarify that not all food recovery organizations and services are subject to SB 1383's recordkeeping and reporting requirements. Only food recovery organizations and services that have established a contract or written agreement pursuant to Section 18991.3 (b) are required to comply, and there is no requirement for a food recovery service or organization to establish a contract or written agreement with a commercial edible food generator. In addition, some commenters also requested that ‘nonprofit charitable temporary food facility’ be removed from the definition of "food recovery organization" because identifying the edible food recovery capacity at these facilities could be very difficult. Removing “nonprofit charitable temporary food facilities” from the definition was not necessary because these entities are a type of food recovery organization that should be recognized and also can help California achieve its 20% edible food recovery goal. However, CalRecycle agreed that assessing edible food recovery capacity at nonprofit charitable temporary food facilities could be very difficult given that these entities include clubs or organizations of students that operate under the authorization of a school or other educational facility. To address this concern, CalRecycle revised Section 18992.2 (a)(2) so that jurisdictions will not be required to assess capacity at nonprofit charitable temporary food facilities located within the county and jurisdictions within the county.
4155	CRRC South	Regulatory Text: (a)(28) “Gray container” means a container where the lid of the container is entirely a shade of gray or black in color. Hardware, such as hinges and wheels, on a “black or gray” container may be a different color. 3. Comment: We recommend a “black container” also be defined separately as all the other color containers are defined. We also recommend consistency with the other color definitions which excludes hardware from the coloration requirement.	CalRecycle has revised the definitions of the containers to be consistent with each other. The definition of gray container in Section 18982(28) already specifies either gray or black. The term “black container” is not used in the regulation.

Comment Number	Received From	Question/Comment	Response(s)
		Thus, we request the added language above that states: Hardware, such as hinges and wheels, on a “black or gray” container may be a different color.	
4156	CRRC South	Regulatory Text: (a)(30) “Grocery store” Comment: It is noted that a bakery, deli, meat and/or seafood department that is not separately owned in a grocery store is part of the definition of a grocery store. Therefore, should a bakery/deli/meat and seafood operation that is separately owned in a grocery store be included, and do bakeries, deli’s, meat and seafood establishments need to be addressed in these regulations?	If a privately owned business within a grocery store independently meets any of the commercial edible food generator definitions and the associated thresholds, then the business will be required to comply with SB 1383’s commercial edible food generator requirements. If the privately owned business does not independently meet the commercial edible food generator definitions or thresholds, then it is not subject to SB 1383’s commercial edible food generator requirements.
4157	CRRC South	Regulatory Text: (a)(36) “Jurisdiction” means a city or county, or a city and county or a special district that arranges or provides solid waste handling services. A city or county, or a city and county, may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, or city and county shall remain ultimately responsible for compliance. 5. Comment: Some districts don’t directly provide handling services, rather they arrange for the services. Arrangers are non-local entities; shopping centers are arrangers.	In response to this comment, CalRecycle defined a “special district” as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a “special district that provides solid waste collection services” is a jurisdiction. Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction’s regulations related to solid waste. The definition of “non- local entity,” lists special districts as an example of a type of entity that could be a “non- local entity” but it does not definitively state that all special districts are non-local entities. Any special district that is a “jurisdiction” and also a “non-local entity” generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3.
4158	CRRC South	Regulatory Text: (a)(40) “Local education agency” means a school district, charter school, or community college , county office of education that is not subject to the control of city or county regulations related to solid waste. 6. Comment: “Community college” should be added to this definition.	Community colleges are included in the definition of non-local entity.
4159	CRRC South	Regulatory Text: (a)(42) “Non-local entity” means an entity that is an organic waste generator but is not subject to the control of a jurisdiction’s regulations related to solid waste. These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public colleges /universities and state agencies. 7. Comment: Higher education is mentioned, but colleges were not referenced while universities are defined. Does a non-local entity include a special district like the Los Angeles Sanitation District that has its own board? Special districts are not defined. Is there consideration of private schools?	The regulations were clarified to include public universities and community colleges in non-local entities. Private schools fit under the existing definition of commercial business which states that a “commercial business” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling. In response to this comment, CalRecycle defined a “special district” as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a “special district that provides solid waste collection services” is a jurisdiction. Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction’s regulations related to solid waste. The definition of “non-local entity,” lists special districts as an example of a type of entity that could be a “non-local entity” but it does not

Comment Number	Received From	Question/Comment	Response(s)
			definitively state that all special districts are non-local entities. Any special district that is a "jurisdiction" and also a "non-local entity" generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3.
4160	CRRRC South	<p>Regulatory Text: (a)(46) "Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material (green material includes cannabis and hemp), landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.</p> <p>8. Comment: Also, in the definition of "organic waste," "printing and writing paper, textiles, carpets" creates a contamination for green waste. For example, these have no energy value in an Anaerobic Digestion facility. The AB 1826 (Chesbro, Chapter 727, Statutes of 2014) definition should be used: Organic waste means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.</p> <p>This definition has meaning, as it is generally used in commerce. What is currently in the draft regulations creates confusion and has no meaning in the marketplace. We would also recommend addressing palms and other monocotyledons and excluding them from the definition of organic waste.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Comment noted. The regulatory text is specifically designed to prioritize or deprioritize certain types of organic waste for specific requirements. For example, organic textiles and carpet, are not subject to the same collection requirements as other types of organic waste. The prioritization reflects the portion of organic waste these materials constitute, which is small, and therefore their total methane generation potential is smaller.</p>
4161	CRRRC South	<p>Regulatory Text: (a)(47) "Organic waste disposal reduction target" Comment: The 2014 Waste Characterization Study baseline was acknowledged by CalRecycle to be flawed, and it fails to accurately reflect the true circumstances prevailing in Southern California. Thus, it creates an inaccurate baseline for measuring progress. The 2020 analysis of the program's progress that PRC Section 42653 requires, which includes the opportunity to provide legislative recommendations should be selected as the basis for evaluating performance and progress.</p>	<p>The 2014 waste characterization was one source of data used to determine the baseline level of organic waste disposal in the year 2014. The 2014 waste characterization study was produced prior to the adoption of SB 1383 in 2016. The waste characterization study is an estimate based on surveys, CalRecycle has not claimed that the study represents an exact or perfect number of organic waste disposal tons that occurred in California in 2014; however, the study represents the most comprehensive estimate of waste disposal for California in 2014. The same study is also relied upon to set targets for AB 1826 which has a 2014 baseline linkage as well. CalRecycle's use of the 2014 study for the 1826 targets was public prior to the adoption of SB 1383. There is no evidence that the Legislature intended that CalRecycle take a different course and disregard the body of evidence compiled in the waste characterization study.</p> <p>However, CalRecycle did not solely rely upon the waste characterization study. CalRecycle supplemented the waste characterization study data with data from the Disposal Reporting System (now the Recycling Disposal and Reporting System) regarding disposal of organic waste as alternative daily cover (ADC) or alternative intermediate cover (AIC). CalRecycle additionally relied upon data provided by the wastewater industry regarding the disposal of biosolids including the disposal of biosolids as ADC and AIC.</p>
4162	CRRRC South	<p>(a)(51) "Paper products" Comment: In this definition, building insulation and panels should not be included. Those materials could be contaminated with Hazardous Waste or plastic as these items are not digestible or compostable.</p>	<p>CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.</p>
4163	CRRRC South	<p>(a)(54) "Printing and writing papers" Comment: "Printing and writing papers" should be taken out of the organics definition for this regulation. Recycling is considered the highest and best use for paper. This being defined as organic waste goes against decades of current practice and education that have been accomplished. It will cause confusion with the public and create burdensome costs in attempting to have the public "unlearn" what has been taught for decades. Arguably, this can have a negative impact on other recycling efforts.</p>	<p>CalRecycle recognizes that some products made from organic waste (i.e. paper products) are collected and processed differently in California. That is why the procurement requirements are separated into two components: 1) Section 18993.1 Recovered Organic Waste Products, and 2) Section 18993.3 Recycled Content Paper Procurement Requirements. CalRecycle recognizes that recovered paper flows differently from a typical food/green waste collection and processing stream, and therefore has required different elements for the procurement of end products from each stream. For example, recycled content paper is not subject to the in-state diversion requirement that organic waste is, due to the limited in-state infrastructure available for paper processing and the difficulty of verifying the paper was made from in-state recycled paper. Nothing in the draft regulations prevents printing and writing paper from achieving its "highest and best use" via recycling. The inclusion of printing and writing paper in the organic waste definition is due to the fundamental fact that paper is an organic material, made from fiber. Therefore, it is subject to the SB 1383 organic waste diversion requirements. It is unclear what the public will have the "unlearn", as written in the comment. In fact, the draft regulations have specific education and outreach requirements (article 4), intended to provide guidance for recycling and diversion efforts of all organic materials, including paper.</p>
4164	CRRRC South	<p>(a)(55) "Prohibited container contaminants" Comment: It is not clear if this prohibits "plastic bags." This could be problematic as some are used in collection systems to separate food waste from green waste. Various jurisdictions have their own "prohibited contaminants" requirements, and this should be left to the jurisdictions to make this determination. Throughout the comments, note the other references to "quarantine requirements" and this needs to be crossreferenced with the USDA/CDFA quarantine standards.</p>	<p>The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome. Regarding quarantine guidance, Section 18983.1(b)(6)(A) refers to the land application of green waste or green material that shall have been processed at a solid waste facility as defined by Section 40194 of the Public Resources Code, if it is to count as a reduction in landfill disposal. It is the responsibility of the solid waste facility to legally comply with the movement of materials as it relates to quarantine zones. Article 3 also allows jurisdictions to dispose of quarantine material if CDFA and the agricultural commissioner requires it. The SB 1383 regulations are specifically intended to address the state's goals for reducing organic waste disposal and the reduction of short-lived climate pollutants. While those goals may overlap with the purview of sister agencies, it is not the intent of these regulations to address every aspect of organics management throughout the state. As noted above, CalRecycle regularly works with CDFA as well as other sister agencies to ensure coordination with existing regulations and statute.</p>
4165	CRRC South	<p>Regulatory Text: (a)(55)(B) Organic wastes that are, carpet, textiles, hazardous wood waste, non-compostable paper placed in the green container that is part of an organic waste collection service provided pursuant to Section 18984.1 or 18984.2. 13. Comment: Textiles should be included in this list of "Prohibited container contaminants."</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Comment noted. The regulations are structured to specify material that cannot be collected in certain containers, e.g. glass cannot be collected in green containers with organic waste. Further, the regulations define organic waste however they do not specifically require organic specific materials to be collected together, e.g. the regulations do not require food and textiles to be collected together. The regulations allow jurisdictions to source separate materials that are recoverable when mixed together.</p> <p>The definition of organic waste itself does not govern how specific types of materials are handled. The definition identifies which materials are organic waste. The active text of the regulation, not the definition, controls how material is handled. Nothing in the regulatory text requires textiles or dead animals to be placed in the green container.</p>
4166	CRRC South	<p>Regulatory Text: (a)(55)(D) Organic wastes, placed in the blue container shall be considered prohibited container contaminants when those wastes were specifically identified in this chapter or through a local ordinance for collection in the green container for recovery. Paper products, printing and writing paper, wood and dry lumber may be considered acceptable and not considered prohibited container contaminants if they are placed in the blue container.</p>	<p>The regulations already allow organic waste, which can include non-hazardous wood and dry lumber, to be included in the green container. The regulations also already allow for non-hazardous wood and dry lumber to be included in the blue container. Regarding treated hazardous wood waste, CalRecycle revised Section 18984.1 to add a new subsection indicating that this material should not be allowed in the blue container.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>14. Comment: Why would wood or dry lumber be allowed in the blue (organics) recycling container? It seems that both should be considered as Construction and Demolition Waste. This is confusing. Allowing wood waste into blue containers could lead to other construction debris finding its way into the container. Wood needs further defining as various forms of it, such as untreated and treated. It should be noted that treated wood has its own specific management standards and should be prohibited in this regulation.</p>	
4167	CRRRC South	<p>Regulatory Text: (a)(63) “Residual organic waste” means waste that remains after organic waste has been processed which is then sent to landfill disposal. 15. Comment: This definition needs to be clarified in the regulations.</p>	<p>A change to the regulatory text is not necessary. A text change is not necessary for the following reason: “Residual organic waste” is defined as: (63) “Residual organic waste” means waste that remains after organic waste has been processed which is then sent to landfill disposal. This sufficiently and correctly describes the intent of the definition which is to identify only the waste remaining and subsequently sent to a landfill after organic waste has been processed.</p>
4168	CRRRC South	<p>Regulatory Text: (a)(72) “The 2014 organic waste disposal baseline” means the total tons of organic waste disposed statewide in 2014 as calculated by CalRecycle’s 2014 Waste Characterization Study. 16. Comment: Please see comments in this communication related to the flawed 2014 disposal baseline. SEE Comment 4236</p>	<p>The 2014 waste characterization was one source of data used to determine the baseline level of organic waste disposal in the year 2014. The 2014 waste characterization study was produced prior to the adoption of SB 1383 in 2016. The waste characterization study is an estimate based on surveys, CalRecycle has not claimed that the study represents an exact or perfect number of organic waste disposal tons that occurred in California in 2014; however, the study represents the most comprehensive estimate of waste disposal for California in 2014. The same study is also relied upon to set targets for AB 1826 which has a 2014 baseline linkage as well. CalRecycle’s use of the 2014 study for the 1826 targets was public prior to the adoption of SB 1383. There is no evidence that the Legislature intended that CalRecycle take a different course and disregard the body of evidence compiled in the waste characterization study. However, CalRecycle did not solely rely upon the waste characterization study. CalRecycle supplemented the waste characterization study data with data from the Disposal Reporting System (now the Recycling Disposal and Reporting System) regarding disposal of organic waste as alternative daily cover (ADC) or alternative intermediate cover (AIC). CalRecycle additionally relied upon data provided by the wastewater industry regarding the disposal of biosolids including the disposal of biosolids as ADC and AIC.</p>
4169	CRRRC South	<p>(a)(77) “Yellow container” means a container where lid of the container is entirely yellow in color. Hardware such as hinges and wheels on a yellow container may be a different color. 17. Comment: There was concern expressed by many of our haulers that this might not be a good choice for food waste coloration as it can stain easily, lacks UV protection and can break down faster, thus increasing costs. Aesthetically, yellow containers when stained might trigger complaints.</p>	<p>CalRecycle responded to stakeholders who initially had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic. The jurisdiction would be able to continue to use the brown containers for manure until they reach the end of their useful life or until 2036, whichever comes first.</p>
4170	CRRRC South	<p>The following definitions should be added to this regulatory text: “Renewable Natural Gas”</p>	<p>Regarding consistency with the Public Utilities Commission (PUC), the definition of “renewable gas” in the proposed regulatory text is intentionally limited to the provisions of these regulations</p>

Comment Number	Received From	Question/Comment	Response(s)
		18. Comment: The definition needs to align with the Public Utilities Commission (PUC) definition and reconciled with other statutes and policy objectives.	and the purpose of SB 1383 statute. This definition does not prevent other agencies from defining “renewable natural gas” or “renewable gas” for a different purpose.
4171	CRRC South	The following definitions should be added to this regulatory text: “Rural Jurisdiction” 19. Comment: There are many jurisdictions for this regulation that are in larger population counties that are rural in nature and have unique circumstances that need accommodation. See other comments related to this in our comments and recommendations.	The specific term rural jurisdiction is only used in the context of rural exemptions linked to 18984.12(c). The term is effectively defined in that section with the following text: “The Department shall grant an exemption from complying with the organic waste collection requirements specified in this article for rural jurisdictions that meet the definition of a “Rural Jurisdiction” in Section 42649.8 of the Public Resources Code...”
4172	CRRC South	The following definitions should be added to this regulatory text: Additional Definitions Needed: 20. Comment: Additional definitions are needed, such as “Incompatible Material, Reuse and Remanufacturing,” especially when discussing textiles and carpets . Also, a definition of an organic waste hauler would be useful. To enhance the market development and procurement component, a definition of “pollution” should be added consistent with other statutes/policies, such as in the SWRCB Trash Policy. Reference: PRC Code §40171.	"Incompatible material" is defined in the regulations. The other suggestions are declined as unnecessary as the terms do not appear in the regulatory language in a manner that requires definition.
4173	CRRC South	Article 2 1) The 10% limit on incompatible materials is very confusing. First, the definition of incompatible materials was introduced in the 2nd Draft, and we are still trying to understand the impact of this definition. Imposing a 10% limit on incompatible material and residuals appears to operate at a 90% organics reduction requirement and not the 50% and 75% requirements required by SB 1383. These 10% requirements may very well be a limit that is impossible to achieve in 2 ½ years, even with the best possible education efforts and with the addition of costly processing equipment.	CalRecycle has revised this section to phase in the acceptable level. The change phased in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal from 10 percent by 2022 to 20 percent on and after 2022 and 10 percent on and after 2024. This change was necessary to allow entities time to plan and make necessary adjustments to their operations. The 50% and 75% are statewide targets. The incompatible material limit only applies when organics are being sent from a solid waste facility or operation to a secondary facility or operation for further processing. This is not a final recovery target. The incompatible material limit is to ensure the “cleanliness” of the organic waste separated from the source separated organic waste stream and mixed organic waste stream in order 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 will be accepting it for further processing.
4174	CRRC South	Article 2 2) We strongly recommend that CalRecycle distribute a flow chart of both 10% requirements so that stakeholders understand the operational aspects of these requirements and the enforcement implications. The 10% language is likely not achievable due to the inclusion of other green waste that cannot be composted or mulched, such as palms and other monocotyledons and cactus. These materials are prevalent in Southern California.	CalRecycle staff has noted the comment and will not make any further text changes in response. However, CalRecycle staff will develop tools to assist in the implementation of the regulations.
4175	CRRC South	Article 2 3) The regulations fall short as well because they do not properly account for the impacts of CDFA quarantines restricting the movement of green materials in several areas of Southern California.	Regarding quarantine guidance, Section 18983.1(b)(6)(A) refers to the land application of green waste or green material that shall have been processed at a solid waste facility as defined by Section 40194 of the Public Resources Code, if it is to count as a reduction in landfill disposal. It is the responsibility of the solid waste facility to legally comply with the movement of materials as it relates to quarantine zones. Article 3 also allows jurisdictions to dispose of quarantine material if

Comment Number	Received From	Question/Comment	Response(s)
			<p>CDFA and the agricultural commissioner requires it. The SB 1383 regulations are specifically intended to address the state’s goals for reducing organic waste disposal and the reduction of short-lived climate pollutants. While those goals may overlap with the purview of sister agencies, it is not the intent of these regulations to address every aspect of organics management throughout the state. As noted above, CalRecycle regularly works with CDFA as well as other sister agencies to ensure coordination with existing regulations and statute. Provisions were added to Section 18984.13 to address such quarantined material and overriding federal requirements.</p>
4176	CRRC South	<p>Article 3. Organic Waste Collection Services Section 18984.1. Three-container Organic Waste Collection Services (a)(3) The gray container shall be for the collection of non-organic waste only. 22. Comment: The standard consideration for haulers is that palms and other monocotyledons cannot be processed before they are placed in the trash container, given this language. Palms and other monocotyledons should be defined as nonorganic.</p>	<p>Regarding palm fronds and monocotyledons, while these materials have been difficult to handle at composting operations, at least one facility has opened in CA that can grind this material and use it in animal feed products, reportedly at a cost significantly less than that of landfilling. Allowing jurisdictions to prohibit this material from being placed in the green container would potentially deter the development of innovative technologies to deal with this material. With respect to human and pet waste, a jurisdiction may prohibit human waste in the green or blue container in a 3-container system and in the green container in a 2-container system. This change is necessary in order to support jurisdiction efforts to minimize public health impacts. This revision does not apply to pet waste, as many jurisdictions collect manure and take this material to processing facilities that have to meet pathogen reduction requirements.</p>
4177	CRRC South	<p>Article 3. Organic Waste Collection Services Section 18984.1. Three-container Organic Waste Collection Services (a)(4) A jurisdiction may comply with this section by providing a container or containers that are split or divided into segregated sections, instead of an entire container, 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. 23. Comment: The ability to change the lid only is an improvement in the regulations. It has been noted that this may be an aesthetic issue for some jurisdictions and their residents.</p>	<p>Thank you for the comment. The comment is in support of the draft regulations.</p>
4178	CRRC South	<p>Article 3. Organic Waste Collection Services Section 18984.1. Three-container Organic Waste Collection Services (a)(5)(A) [The following shall not be collected in the green container:] Carpets, non-compostable paper, and hazardous wood waste and palms and other monocotyledons. 24. Comment: We recommend the inclusion in the definitions section (a) “Bulky items” definition: Certain items require a special pick-up, including, but not limited to, carpet/tree components/lumber/palms and other monocotyledons. There is precedent for this: CalRecycle’s February 19, 2019 presentation on the California State of Disposal and Recycling for Calendar Year 2017 has a breakout for “bulky items” and also breaks out such items as textiles and lumber as well from organics.</p>	<p>Regarding palm fronds and monocotyledons, while these materials have been difficult to handle at composting operations, at least one facility has opened in CA that can grind this material and use it in animal feed products, reportedly at a cost significantly less than that of landfilling. Allowing jurisdictions to prohibit this material from being placed in the green container would potentially deter the development of innovative technologies to deal with this material. With respect to human and pet waste, a jurisdiction may prohibit human waste in the green or blue container in a 3-container system and in the green container in a 2-container system. This change is necessary in order to support jurisdiction efforts to minimize public health impacts. This revision does not apply to pet waste, as many jurisdictions collect manure and take this material to processing facilities that have to meet pathogen reduction requirements.</p>
4179	CRRC South	<p>(b) A jurisdiction that provides a three-container organic waste collection service that complies with subdivision (a) may transport the contents of the gray container</p>	<p>Comment noted. The commenter is acknowledging support.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>to a facility that processes and recovers organic waste. A jurisdiction that complies with subdivision (a) is not required to transport the contents of the gray container to a facility that meets or exceeds the organic waste content recovery standard specified in Section 18984.3. A jurisdiction will not be considered out of compliance with subdivision (a) if it allows carpet and textiles to be placed in the gray container.</p> <p>25. Comment: The transportation protocols established in (b) are beneficial and supported.</p>	
4180	CRRRC South	<p>Section 18984.2. Two-container Organic Waste Collection Services (a)(2) The blue container shall be for the collection of all non-organic waste. However, the blue container may be used for the collection of the following types of organic wastes: paper products, printing and writing paper, wood and dry lumber, and textiles.</p> <p>26. Comment: Supplemental processing is needed for two/one container systems or the same problem will exist with textiles. "Organic textiles" needs to be clarified. Whatever container processing exists, some standard language for supplemental processing is needed.</p>	Nothing in these regulations prohibits supplemental processing of materials as long as it complies with the requirements in Section 17409.5 et seq
4181	CRRRC South	<p>Section 18984.2. Two-container Organic Waste Collection Services (a)(5)(A) The following shall not be collected in the green container: Carpets, non-compostable paper, and hazardous wood waste, palms and other monocotyledons.</p> <p>27. Comment: "Palms and other monocotyledons" should be added here.</p>	Regarding palm fronds and monocotyledons, while these materials have been difficult to handle at composting operations, at least one facility has opened in CA that can grind this material and use it in animal feed products, reportedly at a cost significantly less than that of landfilling. Allowing jurisdictions to prohibit this material from being placed in the green container would potentially deter the development of innovative technologies to deal with this material.
4182	CRRRC South	<p>Section 18984.3. Amend Section 18984.3 Unsegregated Single-container Collection Services to read as follows:</p> <p>(a) A jurisdiction may comply with the requirements of this article by providing a single gray container to each generator that allows for intentional commingling of all collected wastes, including organic waste, provided that the contents of the gray container are transported to a high diversion organic waste processing facility.</p> <p>(b) If the facility that the container is transported to has an annual mixed waste organic content recovery rate that is lower than required in Section 18982(a)(33) of this chapter for two (2) consecutive quarterly reporting periods or three (3) quarterly reporting periods within three (3) years, the facility shall not qualify as a high diversion organic waste processing facility.</p> <p>(c) If the jurisdiction is in violation of this section due to a facility to which it sends organic waste being unable to meet the required annual average mixed waste organic recovery rate, the jurisdiction shall be subject to the enforcement process in Section 18996.2, which may include a corrective action plan as specified in that section allowing it time to meet the requirements of this article prior to the Department seeking administrative penalties.</p> <p>(d) Notwithstanding subdivision (a), 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.</p>	CalRecycle declines the suggested language because it will not ensure that organic waste in gray containers will be recovered at a rate that will achieve the 2025 75% organic waste diversion target in statute.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(e) A jurisdiction may allow organic waste specified for collection in the gray container to be placed in bags for collection.</p> <p>(f) Notwithstanding subdivision (a), the contents of containers utilized in unsegregated single-container collection services may be transported, until 2030, to an organics processing facility that does not qualify as a high diversion organic waste processing facility if all of the following conditions apply:</p> <p>a. The facility is fully permitted to handle and process mixed solid waste that includes organic material.</p> <p>b. The facility was specifically designed and constructed, and has been consistently operated, as a mixed waste processing facility for a period of at least 15 years immediately prior to January 1, 2016.</p> <p>c. The facility is permitted to receive and process no more than 1500 tons per day.</p> <p>d. The jurisdictions utilizing the facility have exclusively relied on the facility to process their mixed waste and organic material for at least 15 years.</p> <p>e. More than 80% of the material processed by the facility originates from a single jurisdiction, in which a significant portion of the population lives below the federal poverty line.</p> <p>f. The facility had undergone a comprehensive upgrade involving the expenditure of not less than \$10 million within the 3-year period immediately prior to January 1, 2016.</p> <p>g. Notwithstanding subdivision (a), the contents of containers utilized in unsegregated single-container collection services may be transported to an organics processing facility that does not qualify as a high diversion organic waste processing facility for good cause, as determined by the department in the exercise of its reasonable discretion.</p> <p>28. Comment: Subdivision (f) above is written to address the unique circumstance confronting a single facility operating in a rural area of the Mojave Desert. We have met with CalRecycle staff on this issue, and we explained that the owner spent north of \$10 million to upgrade it just prior to the adoption of SB 1383. It is the best case of which we are aware for providing a limited continuation or grandfather right to enable the owner to recover and amortize most of her considerable investment, particularly since the communities served generate very little in the way of green waste. We are not opposed to providing temporary relief in this form to other operations and, for that reason, we have included subdivision (g) for which we have not offered specific criteria.</p>	
4183	CRRRC South	<p>Section 18984.4. Recordkeeping Requirements for Compliance with Organic Collection Regulatory Text:</p> <p>(a)(3)(D) The geographical area the hauler(s) serves; or the routes serviced, or a list of addresses served.</p> <p>29. Comment: The language breaches proprietary information in (a) (3) (D) by including a list of addresses served. The franchise agreements and contracts protect</p>	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure. The proposed regulations provide for this.</p>

Comment Number	Received From	Question/Comment	Response(s)
		this propriety information which would allow competitors to access this information potentially causing economic hardship	
4184	CRRRC South	<p>Section 18984.5 (b) A jurisdiction shall conduct a route review for prohibited container contaminants on statistically significant and randomly sampled selected containers in a manner that results in all collection routes being reviewed quarterly annually.</p> <p>30. Comment:</p> <p>1) Fiscal impacts and practicality – The proposed language changes provided for route reviews is meant as a cost-effective approach yet achieving the objectives. We also recommend this just be limited to commercial routes. In Southern California jurisdictions, such as the size of Los Angeles County geographic area and the routes served, the financial burden would be breathtaking. CRRRC Southern District commissioned a Financial Analysis of SB 1383 Costs for Solid Waste Removal Service Providers utilizing a hypothetical city in Southern California. This was one of the costliest items identified and is fraught with potential inaccuracies, work slowdowns, and other legal and customer impacts. The draft regulations fail to adequately consider the practical, operational and financial effects arising from the dramatic loss of efficiency that will occur if our members are required to implement this section of the regulations with the frequency expressed in its current form.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. The regulations also allow annual.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4185	CRRRC South	<p>Section 18984.5 Random route reviews – While operations vary, the commercial organics in some areas consist of crews manually going into enclosures and behind restaurants to retrieve carts or bins for organics, virtually every cart or bin on the route. Are these random route reviews necessary under these circumstances? With some collection methods, this would be done every day – Could this be considered the Route Review?</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. However, nothing prohibits the jurisdiction from inspecting every container as is presented in the commenter's example. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4186	CRRRC South	Section 18984.5 Route review planning/local flexibility – This should be made less prescriptive, and the jurisdiction should be able to conduct a route review as part of their program planning. Each jurisdiction has unique circumstances, and we encourage the regulations, wherever possible, to provide "local" discretion and planning as much as possible.	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4187	CRRC South	<p>Section 18984.5 Cart contamination – Is there a threshold of contamination that would deem a cart to be contaminated? How would personnel be qualified to identify the "appropriate amount of contamination" for a container to be classified as contaminated?</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4188	CRRC South	<p>Regulatory Text: (b)(1)(A) The written notice shall, at a minimum, include information regarding the generator's requirement to properly separate materials into the appropriate containers and may include photographic evidence of the violation.</p>	<p>This requirement does not violate federal or California privacy laws. California v Greenwood (438 US 35) and its progeny have held that once a person has left trash containers out for collection, there is no reasonable expectation of privacy in the contents of those containers and, therefore, no implication or violation of privacy laws</p>

Comment Number	Received From	Question/Comment	Response(s)
4189	CRRC South	<p>31. Comment: This language triggers a query about privacy laws in California and what protections are built in these regulations for all parties.</p> <p>Regulatory Text: (c) If a jurisdiction is informed by a solid waste facility operator pursuant to Section 17409.5.7,17867, or 17896.25.1 of this division, or Title 27,Section 20901, that the waste collected by one of its haulers contains prohibited container contaminants while the hauler was servicing the jurisdiction’s generators, then the jurisdiction shall: (1) Investigate by physically inspecting containers along the route(s) that the contaminants came from to determine the sources of contamination and provide written notification, either by placement on organic waste containers, mailing education notices, or direct contact with generators, which shall, at a minimum, include information regarding the generator’s requirement to properly separate materials into the appropriate containers and may include photographic evidence of the violation. Comment: See comment above on the extreme cost impacts that will result. The service component represents as much as 70% of some rate structures. Slowing collection and sorting operations by even 20% will have dramatic impact on efficiencies and costs All benefit of automating collection routes is lost.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4190	CRRC South	<p>Section 18984.7.Regulatory Text: (a) A jurisdiction shall provide collection containers to generators that comply with the container color requirements specified in this article. (b) Notwithstanding subdivision (a), a jurisdiction is not required to replace functional containers that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2032, whichever comes first.</p>	<p>Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>33. Comment: We understand changing the cart colors after their useful life; however, the metal commercial dumpsters can sometimes last much longer than the plastic carts. Does there have to be a sunset on changing these metal dumpster colors? Respraying the dumpsters when they are in for repairs is reasonable. Removing language holding metal dumpsters to a schedule or year to be repainted is required to comply with appropriate air quality management district rules governing the coating of metal parts and products.</p>	<p>discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products. Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life.</p>
4191	CRRRC South	<p>Section 18984.7. Current container color would be costly to change. Changing lids only can also be very costly. In order to make the change feasible, existing cans, including lids, should be acceptable. Only future purchases should be required in the uniform color(s).</p>	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container.</p>
4192	CRRRC South	<p>Section 18984.7. What is the definition of container for this section? Does this include dumpsters, carts, roll-offs, debris bins, etc. Clarification is needed as there is not a specific definition of container in Article 1.</p>	<p>"Containers" is a common term used to describe bins, carts, dumpsters, carts, roll-offs, debris bins, etc., and related objects.</p>
4193	CRRRC South	<p>Section 18984.7. Clarification is needed throughout the regulations. In many cases, it is unclear if the regulation is intended to apply to both commercial and residential accounts. For example, do commercial bins have to change out lids? What about useful life and the timeline if they have to be changed out? Our own economic analysis reinforced our suspicion that this is one of the most expensive items in the regulations along with audit procedures.</p>	<p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters, and commercial and residential. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement. The regulations allow labels to be applied to existing bins or lids until the containers are replaced either at the end of their useful life or by 2036. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life or by 2036. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products. Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1,</p>

Comment Number	Received From	Question/Comment	Response(s)
			2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036.
4194	CRRC South	Section 18984.7. While the SRIA acknowledges costs, did it evaluate the impact of landfilling all of these carts/containers in a window of time? Did it evaluate the container manufacturing capacity of our suppliers and whether this might lead to a “windfall” and price gouging by such companies who know they have a captive large market in California in a certain time period?	Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container.
4195	CRRC South	Section 18984.7. These regulations seem silent on the “literature” review of local building codes and possible restrictions on design/color and other aesthetic requirements. This is particularly the case in resort communities and jurisdictions with unique climates that require special considerations.	State law would preempt local regulation under these circumstances. Article 11, Section 7 of the California Constitution provides that “a county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” To the extent that local ordinances conflict with state requirements, they would be preempted. See eg. City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc. (2013) 156 Cal.Rptr.3d 409, 56 Cal.4th 729, 300 P.3d 494. Building codes and HOAs cannot be in conflict with local, state, or federal law. Stakeholders raised concerns raised that the regulations may be in conflict with local building codes and possible restrictions on design/color and other aesthetic requirements, for example in resort communities and jurisdictions with unique climates that require special considerations. However, if a HOA’s CC&Rs require use of a particular container color that is not in compliance with these requirements, then the CC&Rs would be in conflict with state law and any local ordinances adopted by jurisdictions pursuant to these regulations. The same would apply to a building code established by a jurisdiction.
4196	CRRC South	<p>Regulatory Text: Section 18984.8.</p> <p>(a) Commencing January 1, 2022, a jurisdiction shall place and maintain a label on each new container or lid provided to generators consistent with the applicable container collection requirements and limitations of this article specifying what materials are allowed to be placed in each container.</p> <p>(b) A jurisdiction may comply with this section by:</p> <p>(1) Placing labels on containers that include written or graphic materials that indicate which materials are accepted and which are prohibited in that container or;</p> <p>(2) Providing containers with imprinted text or graphics that indicate which materials are accepted and which are prohibited in that container.</p> <p>(c) A jurisdiction may comply with this section by using model labeling provided by the Department.</p> <p>34. Comment: There is a question about who must have labels/lid colors. Further, we need clarification on what size text and graphics is required for each type of container needing a label. There need to be more specifics on this. What type of containers need labels: dumpsters/carts/roll-offs/debris bins, etc.?</p> <p>We need clarification on whether the applicable container collection requirements and limitations on the labels are to be implemented for residential customers and not commercial customers. A list on the container does not seem effective, and it is not practical for a blue container with mixed recycling in it. This is not effective instruction for the diverse communities in California.</p>	<p>Jurisdictions must provide containers with appropriate colors and lids except for indoor containers for all organic waste generators, including dumpsters, carts, roll-offs, debris boxes, etc. The regulations provide a phased timeline and flexibility on what must be included on the label and do not prescribe the size of text and specific graphics. The requirements apply to residential and commercial containers.</p> <p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers’ useful life or by 2036.</p> <p>A jurisdiction’s designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters, carts, roll-offs, debris bins, etc. The regulations specify that all containers provided by</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to containers, including compactors, owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier. Statute allows a local jurisdiction to charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section. Additionally, CalRecycle will provide model labels.</p>
4197	CRRRC South	<p>Section 18984.11. Waivers and Exemptions Granted by a Jurisdiction Regulatory Text: (a)(2)(A) [Physical Space Waivers] A jurisdiction may waive some or all of the organic waste collection service requirements of this article if a commercial business or property owner provides documentation, or the jurisdiction has evidence from its staff, a hauler, licensed architect, engineer, or similarly qualified source demonstrating that its premises lack adequate space for separate organic waste containers.</p>	<p>The regulations allow the jurisdiction to address this situation in the physical space waivers.</p>

Comment Number	Received From	Question/Comment	Response(s)
		35. Comments: In multi-family dwellings, bins are put in sideways. Nothing else can fit in this space.	
4198	CRRRC South	<p>Section 18984.11. Regulatory Text: (a)(2)(A) A jurisdiction may waive some or all of the organic waste collection service requirements of this article if a commercial business or property owner provides documentation, or the jurisdiction has evidence from its staff, a hauler, licensed architect, engineer, or similarly qualified source demonstrating that its premises lack adequate space for separate organic waste containers.</p> <p>36. Comments: Space waivers should be grandfathered in unless space is changed to accommodate new/more containers, then compliance should be executed.</p>	<p>According to jurisdictions with similar space constraints waivers, very few businesses can demonstrate the existences of space constraints that cannot be addressed. There are few instances where a business’s existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers are downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). This waiver intends to allow flexibility for businesses with legitimate and cost-prohibitive space constraints without compromising the state’s ability to achieve the organic waste reduction targets. Allowing existing business that do have the ability to implement organic waste collection be grandfathered into the space waiver would reduce the state’s ability to achieve the established organic waste diversion and greenhouse gas reduction targets.</p> <p>Also, there is no requirement to re-inspect on a particular frequency. If the space issue was resolved, then the waiver would be rescinded.</p>
4199	CRRRC South	<p>Section 18984.12.Regulatory Text: (a) Low population waivers: (1) An incorporated city or a special district that provides or arranges solid waste handling services may apply to the Department for a waiver for the jurisdiction and some or all its generators from some or all of the requirements of this article if the following apply. (A) The jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported in the Disposal Reporting System. (B) The jurisdiction has a total population of less than 5,000 people. (b) Waivers issued pursuant to subdivision (a) shall be good for a period of up to two five years and shall be subject to approval by the Department as follows: (1) A jurisdiction shall submit a request for a waiver with the following information: (A)The number of generators that will be included in the waiver. (B) The requested length of the waiver.</p> <p>37. Comment: A special district that arranges or provides solid waste handling services must be added to this section to make it consistent with the definition of Jurisdiction. The waiver language in (b) needs to be changed to be good for a period of up to five years. This will allow flexibility at the discretion of the Department for low-income disadvantaged communities with unusual circumstances and will afford greater discretion for franchise contract implementation and renewal.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA’s definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383’s organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4200	CRRRC South	<p>Section 18984.12.Regulatory Text: (c) Rural Exemptions: (1)The Department shall grant an exemption from complying with the organic waste collection requirements specified in this article for Rural Jurisdictions that meet the definition of a “Rural Jurisdiction” in Section 42649.8 of the Public Resources Code, if the governing body of the jurisdiction adopts a resolution that includes a finding as to the purpose of and need for the exemption. (2) An exemption implemented pursuant to this subdivision shall be valid until January 1, 2025, or until five years after the Department makes a determination pursuant to Section 42649.82 (a)(2)(D) that the statewide disposal of organic waste</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, whichever is later.</p> <p>New (d) proposed language Amend Section 18984.12 Waivers and Exemptions Granted by the Department to include new text as follows: (d) Facility Financing or other Good Cause Exemption (1) The Department shall grant an exemption from complying with the applicable organic waste collection requirements specified in this Article for jurisdictions and haulers that can demonstrate good cause for an exemption. As used herein, the term “good cause” specifically includes, but is not limited to, the circumstance wherein the hauler and the jurisdiction have cooperated in financing, and supporting through corresponding service rate adjustments, the development or improvement of a compost operation, an AD facility or a materials recovery facility that handles solid waste including organic materials, and contributes to the jurisdiction’s ability to meet its waste diversion obligations under the Integrated Waste Management Act. (2) An exemption implemented pursuant to this subdivision shall be valid until the first to occur of (i) January 1, 2030, or (ii), in the case of an exemption granted as a result of a borrowing for the purpose of developing or improving a compost facility, AD facility, materials recovery facility, until the loan incurred to develop or improve the facility has been fully paid.</p> <p>38. Comment: Though not specifically addressed in the above language, we note that an exemption is also needed for jurisdictions in remote locations in the southern portion of the state’s desert areas that have minimal contributions to make in reducing methane and other GHG emissions. They don’t generate anywhere near the average amount of green or other organic material. Some of these areas are as remote as anywhere in the state, but they may not qualify for “rural” status because they lie within large counties that have high population communities located elsewhere in the county. Imperial, San Bernardino and Riverside Counties come immediately to mind. In keeping with the language of SB 1383 (Lara 2016), efforts to reduce emissions of short-lived climate pollutants should focus on areas of the state that are significantly affected by poor air quality.</p>	<p>mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA’s definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4201	CRRRC South	<p>Section 18984.13. Emergency Circumstances 39. General Comment on Waivers: We have raised in prior communication that fecal matter can always be present in our containers, and having a less frequent collection waiver than required in §17331 of Title 14 of the California Code of Regulations could pose health and safety concerns and not be in compliance with other public health requirements.</p>	<p>Nothing in the regulations exempts jurisdictions from existing public health and safety requirements regarding the requirement to collect waste in a manner that does not create threats to public health and safety. The language regarding collection waivers specifies that the jurisdiction must demonstrate to the enforcement agency that a collection frequency waiver will not impact the receiving solid waste facilities ability to comply with solid waste facility permitting standards related to protecting public health and safety from the handling of solid waste. CalRecycle cannot verify that a green or gray container would not include putrescible waste, it is likely that at least one container, which ever contains food will be putrescible. Which is why approval for 14 day collection is subject to review by the EA.</p>
4202	CRRRC South	<p>Section 18985.2. Edible Food Recovery Education and Outreach 40. Comment: Same comment as presented in Comment 39 (CalRecycle Comment 4201). This should be an early adoption. Evaluation of the effectiveness of this effort should be done prior to other actions.</p>	<p>Comment noted. Commenter is expressing an opinion but not recommending specific language changes</p>
4203	CRRRC South	<p>Article 5. Generators of Organic Waste Section 18986.1. Non-Local Entities Requirements 41. Comment: Does this include schools?</p>	<p>Schools are included in the definition of local education agency.</p>
4204	CRRRC South	<p>Article 5. Generators of Organic Waste Section 18986.1. Non-Local Entities Requirements Regulatory Text: (c)(1)(A) [The following shall not be collected in the green container or blue container:] Textiles, carpets, plastic coated paper, and human or pet waste. 42. Comment: This language describing what cannot be included in the green or blue container is confusing when considered with other sections.</p>	<p>Thank you for the comment. CalRecycle amended the applicable sections for consistency.</p>
4205	CRRRC South	<p>Article 6. Biosolids Generated at a Publicly Owned Treatment Works (POTW) Section 18987.2. Biosolids and Sewage Sludge Handling at a POTW 43. Comment: This section requires that biosolids be transported to composting or AD, unless the "biosolids are not suitable for additional processing or recovery." Biosolids can currently be disposed or used for beneficial reuse. We are not sure what "suitable for additional processing" means. In any case, we believe that the nondisposal option for landfilling or beneficial reuse of biosolids should be allowed, particularly during winter months when other recycling or land application options are limited.</p>	<p>CalRecycle deleted Section 18987.2 in response to comments.</p>

Comment Number	Received From	Question/Comment	Response(s)
		This section should be deleted or at least should define what “suitability” means and revised to reflect that “use for beneficial reuse” is not disposal.	
4206	CRRRC South	Article 7. Regulations of Haulers Section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers 44. Comment: Clarifying language should be included to address CDFA quarantine.	Thank you for the comment. Language was added regarding quarantines and CDFA.
4207	CRRRC South	Section 18988.2. Organic Waste Hauler Requirements 45. Comment: Clarifying language should be included to address CDFA quarantine.	Thank you for the comment. Language was added regarding quarantines and CDFA.
4208	CRRRC South	Section 18988.2. Organic Waste Hauler Requirements Regulatory Text: (c)(2) [Notwithstanding (a), this section is not applicable to] A hauler that is lawfully transporting construction and demolition debris in compliance with Section 18989.1. 46. Comment: Add “lawfully” to clarify.	Thank you for the comment. The comment is in support of current language.
4209	CRRRC South	Section 18988.3. Self-haulers of Organic Waste 47. General Comment: CalRecycle in consultation with CDFA needs to provide clarifying language and instructions regarding CDFA quarantine areas and permissible transport and disposal.	Thank you for the comment. Language was added regarding quarantines and CDFA and permissible transport and disposal.
4210	CRRRC South	Section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program 48. General Comment: We agree with the concerns raised by others commenting on these regulations that this section should be eliminated for fear that it could make certain information available to one’s competitors that is now protected from disclosure.	The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction’s Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure.
4211	CRRRC South	Article 8. Cal-Green Building Standards Section 18989.1. CalGreen Building Codes 49. Comment: This section needs to be updated to include the following supplement revision record for the State of California, including but not limited to: Building Standards Code (Cal. Code Regs., Title 24) was published July 1, 2016, with an effective date of January 1, 2017. Additionally, the intervening supplement was published January 1, 2017 with an effective date of July 1, 2018. 2016 Title 24, Part 11, California Green Building Standards Code. The supplement was issued by the California Building Standards Commission in order to provide new and/or replacement pages containing recently adopted provisions for California Code of Regulations, Title 24, Part 11, of the 2016 California Green Building Standards Code. It should be noted and included by reference that California Green Building Standards Code referenced California Code of Regulations, Title 23. Waters, Division 2. Department of Water Resources, Chapter 2.7. Model Water Efficient Landscape Ordinance with the following text: MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWELO). [HCD] The California model ordinance (California Code of Regulations, Title 23,	CalRecycle amended the language to codify the most recently adopted versions of CalGreen and MWELO. The revision date of these requirements is included in the regulatory text, rather than incorporating the text by reference, this has the same regulatory effect. CalRecycle cannot adopt regulations that will “automatically” updated whenever a later standard of CalGreen or MWELO is adopted. If a more stringent standard is subsequently adopted (e.g. increasing the C&D diversion requirements) jurisdictions can and should comply with the new standard. Complying with a new more stringent standard would constitute compliance with the existing standard, however CalRecycle could only enforce the standard included in the regulation.

Comment Number	Received From	Question/Comment	Response(s)
		<p>Division 2, Chapter 2.7), regulating landscape design, installation and maintenance practices. Local agencies are required to adopt the updated MWELo or adopt a local ordinance at least as effective as the MWELo.</p> <p>These references are germane to the organics and recycling provision of the CalRecycle SB 1383 pending regulations.</p>	
4212	CRRc South	<p>Article 9. Locally Adopted Standards and Policies Section 18990.1. Organic Waste Recovery Standards and Policies 50. Comment: This language needs additional flexibility built into it for changes in market conditions and technology advancements.</p>	<p>A change to the regulatory text is not necessary. This section will not conflict with market conditions. Potential market shifts will impact all facilities. This section is necessary because the statute is intended to increase organics recycling, not decrease organics recycling. This provision is simply designed to prohibit a jurisdiction from requiring a generator to send its material to a facility that will recycle less of it than one they are currently sending it to.</p>
4213	CRRc South	<p>General Comment on Article 12: The Short-Lived Climate Pollution Reduction Strategy notes that CalRecycle, as one of its work efforts, is to identify, develop and expand markets for the use of compost, mulch, and renewable fuels and energy. Pursuant to this charge CalRecycle, within the proposed SB 1383 regulatory language, is to focus on strengthening jurisdictions procurement requirements relative to use of recycled organic products. For the purposes of clarity, the term procurement is associated with compost products rather than organic waste products. The distinction being that compost as defined by the USCC is a manufactured product rather than an organic waste product.</p> <p>The USCC Official Definition is: Compost is the product manufactured through the controlled aerobic, biological decomposition of biodegradable materials. The product has undergone mesophilic and thermophilic temperatures, which significantly reduces the viability of pathogens and weed seeds and stabilizes the carbon such that it is beneficial to plant growth.</p> <p>Given that compost is a beneficial product rather than a waste product, it now becomes commoditized biogenic products with marketable end uses to meet jurisdiction procurement requirements, thereby stimulating urban market demands. According to the SB 1383 Infrastructure and Market Analysis Draft Report (CalRecycle, March 2019), composters show a number of sub-products manufactured by them. Subproducts are those products made from the larger categories of compost, mulch, and landfill uses. Soil blends using compost leads the list with 56 percent of composters reporting this use, but composters also make topsoil (26 percent), mixes for erosion control (24 percent), and bagged products (20 percent). Only 6 percent of composters report producing engineered soil, showing perhaps the technical nature of that use. As a sub-product of mulch, composters make organic waste products such as: screened mulch (32 percent), pathogen reduced mulch and colored mulch (20 percent each), and mulch for direct land application (18 percent). As for landfill uses, ADC dominates at 28 percent, with erosion control a close second at 26 percent.</p> <p>Given this general comment, it is recommended that the language of Section 18993.1 be revised to reflect the language of the Short-Lived Climate Reduction</p>	<p>CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>

Comment Number	Received From	Question/Comment	Response(s)
		Strategy and the SB 1383 Infrastructure and Market Analysis Draft Report. Add and delete word changes have been made using strikeouts and underlines.	
4214	CRRC South	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target Regulatory Text:</p> <p>(a) Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste compost products that meets or exceeds its current annual recovered-disposed organic waste product procurement waste targets as determined by this article.</p> <p>(b) Annually, the Department shall assign and provide notice of the annual recovered organic waste compost product procurement target for each jurisdiction, which shall be calculated by multiplying the per capita procurement target by the jurisdiction population where:</p> <p>(1) Per capita procurement target = 0.07 tons of organic waste per California resident per year. an annual percentage incremental increase of compost product procurement based on 36 percent of the total disposed organic waste reported by a Jurisdiction's disposal report for the 2014 base year.</p> <p>52. Comment: The basis for the 36 percent is found in the SB 1383 Infrastructure and Market Analysis Draft Report under the heading "Materials Sold by Market Segment". It is noted that most composters report selling to both landscape and agricultural markets (78 percent and 76 percent respectively). Forty-eight percent of composters report selling into the nursery market; 36 percent into municipal projects; 20 percent to boiler fuel; 18 percent to landfills for ADC; and 16 percent to landfills for other beneficial use</p>	<p>CalRecycle disagrees with the narrow approach to procure only "compost products". CalRecycle's approach recognizes the diverse number of jurisdictions across the state and allows flexibility for jurisdictions to use any combination of recovered organic waste products, rather a one-size-fits-all mandate. This approach is commensurate with the highly ambitious organic waste diversion targets mandated by SB 1383. The commenter's approach would not be sufficient to create the necessary markets for recovered organic waste products for the more than 25 million tons that must be diverted by 2025.</p> <p>CalRecycle also disagrees on the revision to base the procurement target on disposed organic waste. SB 1383 requires a dramatic reduction in organic waste disposal, which would result in an equivalent reduction in the procurement target which is inconsistent with the intent to build markets.</p> <p>CalRecycle disagrees with the proposed revision for the procurement target formula. The suggested language is unclear in meaning and justification.</p>
4215	CRRC South	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target Regulatory Text:</p> <p>(2) Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance. annual percentage incremental increase of compost product procurement is based on the previous year's jurisdiction organic disposal report, incrementally increased over a five-year period from baseline procurement to reach 50 percent or a twelve percent increase in five years.</p>	<p>CalRecycle disagrees with the proposed revision for the procurement target formula. The suggested language is unclear in meaning and justification. If the intent of the comment is to require jurisdictions to procure 100% of their procurement target from compost, CalRecycle disagrees with this narrow approach. CalRecycle's approach recognizes the diverse number of jurisdictions across the state and allows flexibility for jurisdictions to use any combination of recovered organic waste products, rather a one-size-fits-all mandate. This approach is commensurate with the highly ambitious organic waste diversion targets mandated by SB 1383. The commenter's approach would not be sufficient to create the necessary markets for recovered organic waste products for the more than 25 million tons that must be diverted by 2025.</p>
4216	CRRC South	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target Regulatory Text:</p> <p>(c) The Department shall provide notice to each jurisdiction of its annual compost recovered organic waste product procurement target by posting such information on the Department's website and providing written notice directly to the jurisdiction.</p> <p>(d) Beginning January 1, 2022 and every five years thereafter, the Department shall recalculate the annual recovered organic waste compost product procurement target for each jurisdiction according to the requirements of subdivision (b).</p>	<p>CalRecycle disagrees with the narrow approach to base the procurement target on compost only. CalRecycle's approach recognizes the diverse number of jurisdictions across the state and allows flexibility for jurisdictions to use any combination of recovered organic waste products, rather a one-size-fits-all mandate. This approach is commensurate with the highly ambitious organic waste diversion targets mandated by SB 1383. The commenter's approach would not be sufficient to create the necessary markets for recovered organic waste products for the more than 25 million tons that must be diverted by 2025.</p>

Comment Number	Received From	Question/Comment	Response(s)
4217	CRRRC South	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target (e) A jurisdiction shall comply with subdivision (a) by one or both of the following:</p> <p>(1) Directly procuring recovered organic waste compost products.</p> <p>(2) Requiring, through a written contract, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction.</p>	<p>CalRecycle disagrees with the narrow approach to base the procurement target on compost only. CalRecycle’s approach recognizes the diverse number of jurisdictions across the state and allows flexibility for jurisdictions to use any combination of recovered organic waste products, rather a one-size-fits-all mandate. This approach is commensurate with the highly ambitious organic waste diversion targets mandated by SB 1383. The commenter’s approach would not be sufficient to create the necessary markets for recovered organic waste products for the more than 25 million tons that must be diverted by 2025.</p>
4218	CRRRC South	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target (f) For the purposes of this article, the recovered organic waste products that must be procured are:</p> <p>(1) Compost products.</p> <p>(2) Renewable transportation fuel, mulch and through-put on anaerobic digestion operation as it turns into compost.</p>	<p>CalRecycle disagrees with the narrow approach to base the procurement target on compost only. CalRecycle’s approach recognizes the diverse number of jurisdictions across the state and allows flexibility for jurisdictions to use any combination of recovered organic waste products, rather a one-size-fits-all mandate. This approach is commensurate with the highly ambitious organic waste diversion targets mandated by SB 1383. The commenter’s approach would not be sufficient to create the necessary markets for recovered organic waste products for the more than 25 million tons that must be diverted by 2025.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>Regarding “through-put on anaerobic digestion”, the language is vague and unclear. If the commenter is referring to digestate from anaerobic digestion that is then composted, the current draft regulatory text does consider compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target.</p>
4219	CRRRC South	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target (g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product compost procurement target for each jurisdiction to equivalent amounts of recovered organic waste products:</p> <p>(1) One ton of organic waste in a recovered organic waste product procurement target shall constitute:</p> <p>(A) 19 diesel gallon equivalents, or “DGE,” of renewable transportation fuel.</p> <p>(B) 0.58 tons of compost.</p>	<p>CalRecycle disagrees with the narrow approach to base the procurement target on compost only. CalRecycle’s approach recognizes the diverse number of jurisdictions across the state and allows flexibility for jurisdictions to use any combination of recovered organic waste products, rather a one-size-fits-all mandate. This approach is commensurate with the highly ambitious organic waste diversion targets mandated by SB 1383. The commenter’s approach would not be sufficient to create the necessary markets for recovered organic waste products for the more than 25 million tons that must be diverted by 2025.</p>
4220	CRRRC South	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target (h) If a jurisdiction’s annual recovered organic waste product procurement target exceeds the jurisdiction’s total procurement of compost or transportation fuel and renewable transportation fuel from the previous calendar year as determined by the conversion factors in subdivision (g), the jurisdiction is only required to procure recovered organic waste products described in (f) in an amount equal to its total purchase of transportation fuel and renewable transportation fuel from the previous year.</p>	<p>The referenced section has been revised to Section 18993.1(j). CalRecycle disagrees with the proposed revision to add compost in Section 18993.1(j) on the basis that equivalent products are not well defined and lack conversion factors. The intent of this section is to provide jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. Given the potential difficulty of determining conversion factors for comparable products to compost (e.g. liquid chemical fertilizers compared to solid compost), jurisdictions have the option to use their previous year’s procurement of gas, which have readily available organic waste conversion factors, to lower their procurement target. The focus on energy products is intended to simplify the process by which a jurisdiction can lower its procurement target. Although this mechanism relies only on fuel,</p>

Comment Number	Received From	Question/Comment	Response(s)
			electricity, and gas procurement, a jurisdiction can still choose to meet its lowered procurement target with any recovered organic waste products, including compost.
4221	CRRRC South	Section 18993.1. Recovered Organic Waste Product Procurement Target (i) A jurisdiction shall identify additional procurement opportunities within the jurisdictions' departments and divisions for expanding the use of compost products, renewable transportation fuels or recovered organic waste products.	Note the referenced section has been revised to 18993.1(k). CalRecycle disagrees with the proposed revisions as unnecessary because the products considered to be "recovered organic waste products" are already clarified in 18993.1(f), therefore the proposed edits would be redundant. After the rulemaking is finalized, CalRecycle will provide tools and support for jurisdictions in meeting Article 12 requirements.
4222	CRRRC South	53. Comment: Here are two ideas to develop on Article 12. Procurement of Recovered Organic Waste Products: 1. Perhaps the "procurement target" be developed based on a focus on Soil Organic Matter (SOM) content. Much science supports a healthy SOM of 5%, and the soils of California are notoriously below 1%. Those communities can "correct" their SOM content through use of these products.	The purpose for the procurement target methodology is to create a transparent method for local governments to create markets for products generated by organics recycling facilities that is proportional to the number of residents in a jurisdiction. California has over 400 diverse jurisdictions it is impractical, unnecessary, and it would be overly burdensome to account for each jurisdiction's soil organic matter content and to develop a procurement target and enforcement policy for each one. Furthermore, by only accounting for soil organic matter, the procurement target would eliminate options for jurisdictions to procure other recovered organic waste products, such as renewable gas for transportation. CalRecycle disagrees with a blanket requirement for all jurisdictions to use a certain amount of each type of material. For example, a jurisdiction may not have a use for compost. By requiring blanket usages for each product, jurisdictions may be forced into procuring products that may be incompatible with their local needs. The regulations as written allow jurisdictions the flexibility to procure products that fit their local needs.
4223	CRRRC South	Comment: Here are two ideas to develop on Article 12. 2. It is logical to include other products under the definition of ROWP, Chipped wood, bark, tree trimmings can be used as mulch and it does not have to be composted in order to be useful for weed abatement, water savings, and for protecting soil. Liquid organic fertilizers have been derived from these waste products and there is no provision for their purchase. If the regulations require Cities or jurisdictions to take back OM on a per capita basis, it would likely run into issues of stockpiling unwanted OM. A per capita is difficult or impossible to absorb. Agricultural soils are starving for the OM and therefore would be a better end-use for state generated and recycled OM whether it be in compost or liquid organic fertilizers, or mulches and topdressings.	Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. Regarding "stockpiling", CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. It can do this by showing that the amount of fuel, electricity, and gas for heating applications procured in the previous year is lower than the procurement target.
4224	CRRRC South	Section 18993.4. Record Keeping Requirements for Recycled Content Paper Procurement 54. General Comment (for end of Article 12, applying to the entire article): "Recycled" should be considered highest and best use.	Nothing in the draft regulations prevents printing and writing paper from achieving its "highest and best use" via recycling. The inclusion of printing and writing paper in the organic waste definition is due to the fundamental fact that paper is an organic material, made from fiber. Therefore, it is subject to the SB 1383 organic waste diversion requirements.
4225	CRRRC South	Article 13. Reporting Section 18994.1. Initial Jurisdiction Compliance Report 55. Comment: Our members desire to actively participate in the development of any draft or model ordinance as their input and unique perspective will be of value to the effort.	Comment noted. Comment is not recommending a change to the regulatory text.

Comment Number	Received From	Question/Comment	Response(s)
4226	CRRC South	Article 14. Enforcement Requirements 56. General Comment on Article 14: This article could prompt a lawsuit concerning data on emission increases.	Comment noted. Commenter is expressing an opinion regarding litigation risk but is not suggesting a particular language change.
4227	CRRC South	Article 14 Section 18995.1.57. Comment: Residential service should not be included in this section. Economic impact should be considered. When reviewing the SRIA document which we believe understates the impacts and overstates the benefits, we still note that the department indicates it will take over 60 new staff (approximately \$7.3 million annually) to implement this, and revenue appears to come from this regulation. Thus, we have obvious concerns for a “bounty hunter” approach to enforcement to become the culture. We also ask that the regulations include some form of reasonable or credible evidentiary standard that CalRecycle must follow before it can pursue enforcement efforts.	However, CalRecycle did not solely rely upon the waste characterization study. CalRecycle supplemented the waste characterization study data with data from the Disposal Reporting System (now the Recycling Disposal and Reporting System) regarding disposal of organic waste as alternative daily cover (ADC) or alternative intermediate cover (AIC). CalRecycle additionally relied upon data provided by the wastewater industry regarding the disposal of biosolids including the disposal of biosolids as ADC and AIC.
4228	CRRC South	Article 14 Section 18995.3. 58. Comment: Investigations must be made on first hand credible evidence to determine if there is a conscious attempt to circumvent compliance of the proposed regulations.	Comment noted. Comment is not recommending a change to the regulatory text.
4229	CRRC South	Article 14 Section 18995.4. Comment: We urge that a form of graduated enforcement be considered. We also renew our request for clarification on the “Corrective Action Plan” and when a jurisdiction is deemed to not be implementing all of the program. If a jurisdiction is not doing all that it must, then the jurisdiction’ ability to undertake enforcement against its hauler or others needs to be suspended or limited in some fashion. Otherwise, some may simply opt to force all implementation efforts down to others under their administrative or contractual control, rather than taking the steps requested of them.	A change to the regulatory text is not necessary. Section 18995.4(b) explains that if an entity is unable to comply due to circumstances outside of its control, such as the jurisdiction is on a Corrective Action Plan, than a jurisdiction may grant extensions to the entities compliance deadlines until the jurisdiction is in compliance, hence allowing the entity to also comply.
4230	CRRC South	Article 14 Section 18995.4. Concerns have also been expressed that 90 days does not provide adequate time to respond to ordinance program deficiencies.	CalRecycle has revised section 18996.1(e) in response to this comment. The change increases the relevant timeline to 180 days.
4231	CRRC South	Article 14 Section 18995.4. There should be some expression of “reasonable notice” for access to inspection, and clarification is needed on facility inspections that are authorized in this regulation: compost, MRF, hauler facilities?	Comment noted, a change to the regulatory text is not necessary. Section 18996.4 states that an authorized Department employee or agent may enter the premises of any entity subject to this chapter. Haulers, material recovery facilities, compost facilities and other solid waste facilities are regulated under other chapters of Title 14. Those provisions are not subject to this rulemaking process.
4232	CRRC South	Article 6.2 Section 17409.5.2 . Comment: Taking one cubic yard samples from each organic waste type separated after processing at the facility on that operating day is not workable. There are too many waste types defined under these proposed regulations. This activity would take up too much valuable working floor space in addition to disrupting business activity and creating an unsafe working condition for staff. Please keep in mind that anytime you place human beings alongside heavy equipment the probability of an accident, injury or death increases significantly. This would also be a very time consuming and costly endeavor each time the sampling would take place. Even	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite

Comment Number	Received From	Question/Comment	Response(s)
		<p>doing this activity based upon material type on a periodic basis would create a hardship for operators of these facilities. This process needs to be significantly scaled back or eliminated all together for safety and logistical reasons. This safety issue may also be in conflict or implicate CALOSHA regulations.</p>	<p>sample be a random and representative of a typical operating day for 10 consecutive days per reporting period. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
4233	CRRRC South	<p>A WORD ABOUT STATUTORY BACKGROUND AND SCOPE OF LAW</p> <p>As further detailed below, we have real concerns about the lack of a proper relationship between these regulations and the statute that gave rise to them. The final Short-Lived Climate Pollutant Reduction Strategy (SLCP Strategy) was developed pursuant to SB 605 and SB 1383 and lays out a range of options to accelerate SLCP emission reductions in California, including regulations, incentives and other market-supporting activities.</p> <p>For organic waste currently landfilled, the California Department of Resources Recycling and Recovery (CalRecycle) has consulted with the Air Resources Board (ARB) to develop regulations to reduce the level of the statewide disposal of organic waste by 50 percent of 2014 levels by 2020 and 75 percent of 2014 levels by 2025. These regulations will take effect on or after January 1, 2022. The CalRecycle regulations are reported to do the following: 1) allow jurisdictions that want to adopt early the ability to do so, thus contributing to the 2020 goal; and 2) provide clear direction to all jurisdictions, their service providers, and regulated businesses with state minimum standard so that they can plan and budget for the required program changes that will need to take effect in 2022.</p> <p>Key issues associated with increasing actual recycling capacity and diversion include quantifying the co-benefits and the GHG emission reduction benefits of applying compost, addressing the crossmedia regulatory tradeoffs between product use benefits relative to compost facility impacts, making beneficial use of compost end products or biomethane generated from anaerobic digestion projects, and overcoming difficult issues associated with siting, social acceptance, CEQA mitigation, and other issues related to new organics processing facilities. Under SB 1383, 20 percent of the edible food destined for the organic waste stream is to be recovered to feed people in need by 2025. CalRecycle has initiated new ways to foster food waste prevention and edible food recovery through state minimum standards.</p> <p>The State has already established its intent to phase out the disposal of organics from landfills. Existing law sets a goal to source reduce, recycle or compost solid waste and provides other measures and requirements to support diverting organics from landfills. California will build on that intent and progress, with regulated market and institutional support to reduce disposal of organics. Due to the multi-year timeframe required to breakdown landfilled organic material, emissions</p>	

Comment Number	Received From	Question/Comment	Response(s)
		<p>avoided by diverting organic material in one year are realized over several decades to come. These actions are estimated to reduce landfill emissions by 4 MMTCO₂e in 2030; by estimating one year of waste diversion in 2030, it is expected to avoid 14 MMTCO₂e of emissions over the lifetime of waste decomposition.</p> <p>Quantifying emissions from landfills is difficult due to their area-wide nature and several landfill-specific factors. In the GHG inventory and its climate programs, ARB assumes a methane capture efficiency of 75 percent at landfills. This conforms with common practice nationally. In its Landfill Regulation, ARB estimated that the landfill regulation may increase the collection efficiency at regulated landfills to 80-85 percent.</p> <p>The statute establishes a data baseline using the 2014 waste characterization study for organic waste disposal and requires the department and the board by July 1, 2020 to analyze progress by the waste sector, state and local government in achieving the goals and authorizes the department to include additional incentives and requirements. The statute also allows the department in consultation with stakeholders to make recommendations to the Legislature for revisions to the organic waste reduction goals.</p>	
4234	CRRRC South	<p>It should be noted that the final draft SB 1383 regulations do not comport to achieve the strategic thresholds of the SLCP Strategy, but simply is a means of setting state minimum standards to regulate physical contamination by establishing excessively punitive waste management standards and oversight that ignore the impacts on low-income, disadvantaged communities. As noted in SB 1383 (Lara, 2016): “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.”</p>	<p>Comment noted. It is unclear what is the basis for the statement that the regulations do not demonstrate a nexus to public health, climate change, or emission reductions. The specific direction in statute is for CalRecycle to adopt regulations to reduce organic waste disposal to levels prescribed in statute. Designing regulations to achieve these targets will inevitably reduce emissions, reduce criteria pollutants, improve public health and reduce the impacts of climate change. The environmental and public health benefits are thoroughly documented in the Final EIR, as well as updated cost analysis in Appendix A of the ISOR. Regarding markets, procurement co-benefits the terms are vague and unclear. Finally, SB 1383 does not require this nexus. For the purpose and necessity of the regulatory provisions, please refer to the Final Statement of Reasons.</p>
4235	CRRRC South	<p>The proposed regulations do not demonstrate a nexus between the regulations, public health, climate change, technology advancement, markets and procurement co-benefits, and/or quantifiable emission reduction metrics for methane, criteria pollutants and other GHG gases.</p> <p>Additionally, a recent evaluation of the Cap and Trade program by the Legislative Analyst’s Office (LAO) reinforces the need for the nexus. Their report correctly observed that a lack of information about metrics and expected outcomes by agencies limits planning for programs, funding decisions, contributes to the lack of accountability of agencies overseeing the programs, and, of most importance in many cases, impacts the “goals” being obtained.</p>	<p>Comment noted. It is unclear what is the basis for the statement that the regulations do not demonstrate a nexus to public health, climate change, or emission reductions. The specific direction in statute is for CalRecycle to adopt regulations to reduce organic waste disposal to levels prescribed in statute. Designing regulations to achieve these targets will inevitably reduce emissions, reduce criteria pollutants, improve public health and reduce the impacts of climate change. The environmental and public health benefits are thoroughly documented in the Final EIR, as well as updated cost analysis in Appendix A of the ISOR. Regarding markets, procurement co-benefits the terms are vague and unclear. Finally, SB 1383 does not require this nexus. For the purpose and necessity of the regulatory provisions, please refer to the Final Statement of Reasons.</p>
4236	CRRRC South	<p>The statute’s baseline utilizing the 2014 Waste Characterization Study is problematic as it is known to be a flawed data set. With that in mind, it is troubling that a determination of a major regulatory package of this magnitude would utilize this data to implement enforcement actions and significant penalties. The release of the 2014 Waste Characterization Study was delayed due to gaps in data collection,</p>	<p>The 2014 waste characterization was one source of data used to determine the baseline level of organic waste disposal in the year 2014. The 2014 waste characterization study was produced prior to the adoption of SB 1383 in 2016. The waste characterization study is an estimate based on surveys, CalRecycle has not claimed that the study represents an exact or perfect number of organic waste disposal tons that occurred in California in 2014; however, the study represents the</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>especially in Southern California, as expressed by the department. When the study was released it was mentioned that it was finalized by averaging the 2008 characterization study with the 2014 waste characterization study. Clearly, this does not provide an appropriate baseline to establish accurate targets or trigger enforcement actions. The 2018 Waste Characterization Study should provide more appropriate criteria specific to SB 1383 for measurement and needs to be statutorily updated as part of the 2020 (PR Section 42653) analysis.</p>	<p>most comprehensive estimate of waste disposal for California in 2014. The same study is also relied upon to set targets for AB 1826 which has a 2014 baseline linkage as well. CalRecycle's use of the 2014 study for the 1826 targets was public prior to the adoption of SB 1383. There is no evidence that the Legislature intended that CalRecycle take a different course and disregard the body of evidence compiled in the waste characterization study. However, CalRecycle did not solely rely upon the waste characterization study. CalRecycle supplemented the waste characterization study data with data from the Disposal Reporting System (now the Recycling Disposal and Reporting System) regarding disposal of organic waste as alternative daily cover (ADC) or alternative intermediate cover (AIC). CalRecycle additionally relied upon data provided by the wastewater industry regarding the disposal of biosolids including the disposal of biosolids as ADC and AIC.</p>
4237	CRRRC South	<p>The statute is quite clear that jurisdictions may impose penalties and other regulatory mechanisms and does not require those to be implemented prior to program implementation. As a result of the flawed baseline and short timeline before a 2020 analysis or progress, it seems ill-timed to advance and codify any prescriptive enforcement regulations. Furthermore, with the permissive nature of statute, it does not seem that the state has the authority to require civil penalties on residential and commercial customers.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .'. The [administrative agency] is authorized to 'fill up the details' of the statutory scheme."</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance."</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p> <p>The enforcement provisions are included in the proposed regulations prior to the 2022 effective date in order to give jurisdictions advance notice as to regulatory requirements in order to craft local ordinances and for planning purposes. However, the commenter is correct that penalties will not be enforceable prior to the 2022 date reflected in SB 1383.</p> <p>Public Resources Code Section 42652.5(a)(1) states that the regulations may require local jurisdictions to impose requirements on generators, which include residential and commercial customers, and envisions penalties to enforce these requirements.</p>
4238	CRRC South	<p>Low Income/Disadvantaged Communities – Many of our members’ service areas are considered low income and disadvantaged communities under AB 1550, SB 535 and AB 617. The regulation does not take into account the circumstances of communities and others affected by environmental challenges. The regulations do NOT appear to reconcile and incorporate other statutes and regulations that intersect with the “real world” implementation of SB 1383</p>	<p>Comment noted. The regulations do include additional notification and outreach requirements in revised solid waste facility permitting language in the regulations.</p>
4239	CRRC South	<p>Methane Reduction – As written, AB 1383 is intended to reduce short-lived climate pollutants, such as methane. Even though methane contributes to only about 9% of the world’s Greenhouse Gasses (GHG), carbon dioxide emissions contribute to about 82%. While methane (as short-lived) can survive in the atmosphere for about 9 years, aggressive carbon dioxide will survive in the atmosphere for over 100 years. Are we sure that the answer is to put more trucks on the road to pick up three garbage cans as opposed to just one or two? We fear that some of the regulatory actions contemplated by these regulations have not been evaluated for their true environmental costs and could actually trigger increased greenhouse gases, criteria pollutants and air toxic emissions.</p>	<p>Comment noted. CalRecycle prepared an Environmental Impact Report to analyze potential environmental impacts.</p>
4240	CRRC South	<p>Working to Enhance Market Demand for Organic Materials A. Organic Procurement Goals – The California Environmental Protection Agency (CalEPA), the California</p>	<p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Department of Resources Recycling and Recovery (CalRecycle), the California Air Resources Board (CARB), and the California Department of Food and Agriculture (CDFA) should consider working with other state offices to determine if opportunities exist to enhance state and local government procurement of compost and other value-added soil amendments, as well as biogas products for the transportation sector to help drive the market for such products. CalRecycle should consider including local government procurement requirements in its SB 1383 regulations as an additional incentive to help foster a more vibrant market for value-added organic materials products. CDFA’s Healthy Soils Initiative also holds great potential for supporting the increased application of compost on agricultural land. The state government entities listed above should work together to develop actions to provide additional incentives for the production and use of value-added organic materials products, such as compost.</p>	<p>procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding local government procurement requirements, the comment as written is ambiguous in its intent, as the current draft procurement requirements is already entirely based on local governments.</p> <p>CalRecycle participated in development and implementation of the Healthy Soils Initiative (HSI) and assisted the California Department of Food and Agriculture (CDFA) in developing reimbursable compost application rates, estimating nitrate loads following compost application, developing the HSI grant application, and including compost application as an eligible soil management practice. While CalRecycle appreciates the ability to provide input, the HSI is ultimately under the regulatory authority of CDFA, not CalRecycle.</p>
4241	CRRC South	<p>Researching Organic Materials and Energy Management Benefits – CalEPA, CDFA, CalRecycle, the State Water Resources Control Board (SWRCB), and CARB should conduct a literature review to identify existing high-quality information on economic, energy and other issues related to organic material management. The review could identify methods to quantify and monetize the benefits of using compost, mulch, digestate, and value-added soil amendment products. This could include research on using such products to enhance soil water retention, soil health, the relative levels of air pollutant emissions from producing different types of organic materials, stormwater controls, and job creation effects from creating infrastructure. As resources allow, the literature review should also identify knowledge gaps to provide direction on future research needs.</p> <p>This research could provide useful insights into how such benefits can be enhanced. It could also be used to develop plainspoken educational material describing the benefits to agricultural sectors, local governments and other entities from using organic materials.</p>	<p>Comment noted. The commenter is offering suggestions for actions outside the regulations or regulatory process.</p>
4242	CRRC South	<p>AB 939 took 15 years to implement a 50% threshold of “easier to recover materials,” whereas SB 1383 offers us a mere 9 years to implement a 75% target and a 20% edible food recovery goal. This approach “flips the entire current</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>infrastructure upside down” with potentially major economic and systemic impacts and moves from a local approach to integrated waste management that has exhibited highly successful outcomes toward a state “command and control” system whose performance is unknown. Ironically, this comes at the very time when the market development component demands more local feedstock, local markets and local solutions.</p>	<p>provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4243	CRRC South	<p>The proposed regulation relies upon a new reporting requirement and enforcement mechanism in AB 901 (Gordon, Chapter 746, Statutes of 2015) which moves from a local reporting system to a state reporting obligation. It needs to be noted that this regulation is delayed in implementation, and comments on this regulation are due before the public knows the status of the AB 901 regulations pending at the Office of Administrative Law (OAL) awaiting a March 5, 2019 deadline. This is concerning since some of the components of AB 901 are embedded in this regulatory package, and we are responding “blindly” to this regulatory filing before the final rulemaking of AB 901 is known.</p>	<p>Comment noted. Commenter is offering an opinion on the timing of this rulemaking as related to another pending rulemaking (that was actually completed prior to the completion of the SB 1383 rulemaking).</p>
4244	CRRC South	<p>As has been expressed by CalRecycle, the success of the Short-Lived Climate Pollutants (SLCP) mandate set forth in SB 1383 will require engagement from the state, local jurisdictions, haulers, recyclers, businesses both large and small, consumers, residents, and impacted disadvantaged communities. To achieve this goal educational outreach is a critical cornerstone, and yet the regulation as designed does not sufficiently establish a “stairstep” approach to phase in this program’s many layers and evaluate progress prior to advancing the whole infrastructure. Since educational outreach is such a critical component of the success of this program, the regulation should start with this outreach and evaluate how that is progressing before phasing in other pieces of the regulation.</p>	<p>The regulations already require education; in addition, Article 14 regarding enforcement also includes provisions regarding failure to provide required education.</p>
4245	CRRC South	<p>We also note the challenge and confusion created by lumping haulers, local government and organics processors in one regulatory package.</p>	<p>Comment noted. The commenter is expressing an opinion regarding the scope of potentially regulated parties in the regulations. CalRecycle determined that the regulations needed to reach multiple regulated entities in order to achieve the goals in statute.</p>
4246	CRRC South	<p>Thus, we respectfully request that there be a more “measured” approach to this endeavor and a phase in of this regulation when the platform of infrastructure, market development and education is accomplished first.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4247	CRRRC South	We strongly recommend Cal Recycle convene a “stakeholder working group” with impacted parties, such as local government and our industry, to facilitate changes that can assist in achieving the metrics and goals required by the statute.	Comment noted. CalRecycle held a robust two year informal and one year formal public rulemaking process.
4248	CRRRC South	We respectfully request that CalRecycle authorize another 45 day comment period to allow the public adequate input.	Comment noted, CalRecycle held four public comment periods providing more than 100 days for public comment.
4249	CRRRC State (Lynch, K, CRRRC State)	First, we propose that programs utilizing a three-bin or two-bin system be permitted to add the volume of organic material diverted from their source separated organic container and recycling container to the overall recovery of the high diversion facility organic recovery tonnage. Many jurisdictions may use a source separated organic container to collect greenwaste, but find that food waste is better managed in the recycling or refuse container. For example, local composters may only be permitted to handle greenwaste and food waste might be better sent to an AD facility. This regulation, as currently drafted, does not allow for this crucial flexibility and discourages systems that may work better for local infrastructure.	A change to the regulatory text is not necessary. Section 17409.5.6 requires that source-separated and mixed organic waste be stored and processed separately. However, the recovered organic waste from both waste streams can be combined once sampling/measurements have taken place. The source separated organic waste is kept separate from the mixed waste stream to ensure that the maximum amount of organic waste is kept clean by reducing cross contamination so it can be recovered and not disposed. This is necessary to ensure that the organic waste recovery target established in statute can be met. In addition, combining the source separated organic waste with the mixed organic waste stream prior to sampling would skew the results to determine the facility’s efficiency to recovery organic waste from the mixed organic waste stream for recycling. Furthermore, it also provides consumers the confidence that material they consciously separated for recovery is actually recovered.
4250	CRRRC State (Lynch, K, CRRRC State)	We also recommend CalRecycle consider a secondary processing phase to meet the respective 50% and 75% recovery efficiency targets. In other words, a high diversion organic waste processing facility could meet the targets by sending their material to a secondary processor, such as a compost facility. This possibility was discussed at a stakeholder meeting with CalRecycle staff last year. At that time, staff expressed support for this concept, which would allow for the same amount of material to be diverted overall, as well as ensure that huge community investments in processing infrastructure are not left stranded.	CalRecycle staff has noted the comment. Secondary facilities (Compost/In-vessel digestion) are a part of meeting the recovery efficiency. Material processed at a transfer/processing facility must meet the incompatible material limits before it is sent to a compost or in vessel digestion facility in order for the material to be counted as recovered for the purposes of measure recovery efficiency. Compost/in-vessel digestion facilities are not required to meet a recovery rate, but instead, have a limitation on how much organic waste can be disposed. Alternatively a transfer/processor sending material to a compost/ In-vessel digestion facility that demonstrates less than 20 percent of organic waste in material it sends to disposal on and after 2022 and 10 percent on and after 2024 does not need to meet the incompatible materials limit.

Comment Number	Received From	Question/Comment	Response(s)
4251	CRRRC State (Lynch, K, CRRRC State)	<p>Finally, we think it is important to highlight the fact that international markets create unique challenges for the paper fraction of organic waste recovery. While greenwaste and food waste are managed domestically, we rely heavily on international export markets to purchase and further manage our recyclable paper. This is highly evident with the recent impact of National Sword and China's restrictions on the import of recyclable material. Given the lack of domestic markets to manage paper material, we recommend CalRecycle give special consideration to this material stream, especially if a high diversion organic waste processing facility is unable to move this material due to international market conditions. It does not assist our overall goals to shutter facilities that may not be able to move paper when all facilities are experiencing the same market conditions. Instead, we must focus on developing domestic markets for this material.</p>	<p>Comment noted. Commenter is expressing an opinion and perspective on international markets for paper and requesting CalRecycle consider those. The comment is not suggesting particular regulatory language.</p>
4252	CRRRC State (Lynch, K, CRRRC State)	<p>Sections 17409.5.2-.8 sampling Requiring daily sampling of all organic waste types and the residual stream will be time consuming, labor intensive and could create space challenges. This will also require all operators to purchase new scales specifically for this purpose, as a the scale house is not suitable for such small weight amounts. We support periodic sampling that will reduce overall costs and alleviate safety concerns, while providing more representative contamination data. CRRRC members are convening a working group to discuss this issue and provide a periodic sampling methodology that will provide the data you seek, while lessening the excessive burden of the proposed methodology, as currently drafted. It is critical that the methodology be operationally workable, cost-effective and protect the health and safety of our workers. We will also address what materials should count as contaminants and organics for this section.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
4253	CRRRC State (Lynch, K, CRRRC State)	<p>Loadchecking Contamination Language Since contamination reporting and record keeping will be required on the back end, we question why this section is necessary. Operators may choose to check incoming loads in a process that works for their operation, including informing the hauler or jurisdiction of received loads with visible contamination.</p>	<p>A change to the regulatory text is not necessary. The purpose of the gray container waste evaluations is to determine how much organic waste is present in the gray container collection stream. This is necessary to determine how effective organic waste is being recovered and use the results to gauge the accuracy of the jurisdictions container contamination minimization results that send their waste to that specific facility. The result from the above measurements independently will help provide an overview of how the jurisdictions and facilities are doing and allow to cross-check the measurements, even though it is not per jurisdiction. In addition to providing information on the type and quantities of organic waste not being recovered for possible future regulations in order to help recover those materials.</p>

Comment Number	Received From	Question/Comment	Response(s)
4254	CRRRC State (Lynch, K, CRRRC State)	Loadchecking Contamination Language While changing the record keeping from 10% contamination to visible contamination was helpful, the language still reads that operators “shall perform loadchecking to measure the amount by volume of contamination” in loads received. Not only does the volume measurement not align with the weight measurement of the sampling methodology, operators are no longer assessing the percent of contamination in incoming loads, only whether or not there is visible contamination. If this methodology remains, it should only be for whether or not there is visible contamination in a particular loadcheck. Any language referring to measuring the amount by volume should be stricken from the regulations.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
4255	CRRRC State (Lynch, K, CRRRC State)	Loadchecking Contamination Language Furthermore, operators that receive less than 500 tons a day should only be required to do one load check per day. Each source sector check should also be done on a monthly, not daily basis, as the previous draft language read.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
4256	CRRRC State (Lynch, K, CRRRC State)	Waste Collection Service Container Requirements As several stakeholders pointed out during their oral testimony during the May workshops, requiring specific colors for collection bins will be costly, as will labelling any existing containers by 2025. At a minimum, we recommend that the containers used for collection of waste, not source-separated organics or recyclables, be a color distinct from the source separated organics and recycling containers. This means a refuse container could be brown, gray, black, etc., and will slightly reduce the cost burden of replacing all containers. Staff may also consider whether simply changing the lid color would be appropriate, so perfectly viable container bodies are not discarded, adding to California’s overall waste stream. It was also noted by several CRRRC members that yellow containers will quickly become discolored and unattractive if used for the collection of food waste. Yellow also does not hold up as well in UV conditions. A yellow lid might be a good compromise.	CalRecycle revised the requirements in response to stakeholder comments, including allowing labeling only on new containers, allowing containers to phased out at the end of their useful life or by Jan. 1, 2036, the lid or the body can be the required color, and the color of the containers collection of waste is gray or black. The changes were made to be the less costly and burdensome. Based on stakeholder comments yellow is not a required container color. CalRecycle responded to stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic.
4257	CRRRC State (Lynch, K, CRRRC State)	Waste Collection Service Container Requirements As for commercial containers, many companies use different colors so they can distinguish their containers from other providers during collection. These are also very expensive metal bins and not easily replaced. Their lifespan is also considerably longer than plastic totes. At a minimum, the container color for refuse should not be mandated. Staff should also consider whether different colored lids would be appropriate, in lieu of replacing body colors. Standardized labelling of existing commercial containers may be a	Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits

Comment Number	Received From	Question/Comment	Response(s)
		possible middle ground for consideration. Carts could be standardized as a first phase, but a commercial container program should be held over for phase 2 implementation with labelling.	in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products. Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life.
4258	CRRRC State (Lynch, K, CRRRC State)	Waste Collection Service Container Requirements While we have not done an official cost estimate analysis, some members roughly estimate that replacing California's waste collection containers would cost around \$625M.	The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement. The regulations allow labels to be applied to existing bins or lids until the containers are replaced either at the end of their useful life or by 2036. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life or by 2036. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products. Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036.
4259	CRRRC State (Lynch, K, CRRRC State)	Waste Collection Service Container Requirements Furthermore, generators should not be obligated to use the same color scheme in their business establishment if proper labelling is used. Interior design is important to business owners and requiring them to provide colored bins will likely discourage participation.	With respect to containers owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements. In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to

Comment Number	Received From	Question/Comment	Response(s)
4260	CRRRC State (Lynch, K, CRRRC State)	<p>Procurement Limitations As several stakeholders have already shared, we recommend additional procurement opportunities for renewable gas. While we strongly support the inclusion of biogas for transportation fuel, we recognize that there are other opportunities that may be more cost-effective in a particular region or location. Furthermore, the Short-Lived Climate Pollutant Reduction Strategy and the Integrated Energy Policy Report both support biogas production for a variety of end uses. We recommend CalRecycle use the same terminology for “renewable gas, including biogas and biomethane” as referenced in SB 1383. CalRecycle staff should work with CARB to identify an appropriate conversion factor for the various end uses of renewable gas.</p>	<p>meet that statute’s signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4261	CRRRC State (Lynch, K, CRRRC State)	<p>Procurement Limitations Additionally, we believe it is critical that the state play a role in procurement and be required to purchase the same products as jurisdictions. If CalRecycle may not have complete authority to oversee state procurement, they need to work with DGS to ensure that acquisition of this material is prioritized. Jurisdictional procurement alone will not create the markets we need to utilize material created from organics management.</p>	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
4262	CRRRC State (Lynch, K, CRRRC State)	<p>Procurement Limitations Ultimately, it is the agricultural and generator sector that has the greatest purchasing power in creating and sustaining markets. While CalRecycle may not have complete authority over these sectors, they need to work closely with CDFA to help incentivize and encourage more development of organic product markets. As the utilities in California have a renewable energy procurement obligation, we need to work toward a renewable soil amendment obligation and invest heavily in supporting viable markets. Additionally, we believe the regulations need to specifically defer to CDFA and USDA for appropriate quality standards for quarantine guidance pursuant to Section 30.1 or 30.2 B. We would note that a county agricultural commissioner may not have a contract or other authority to oversee a quarantine or movement of feedstocks of organic wastes in or out of a quarantine area.</p>	<p>CalRecycle cannot impose procurement mandates on other sectors without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding working with the California Department of Food and Agriculture (CDFA), CalRecycle participated in development and implementation of the Healthy Soils Initiative (HSI) and assisted the CDFA in developing reimbursable compost application rates, estimating nitrate loads following compost application, developing the HSI grant application, and including compost application as an eligible soil management practice. While CalRecycle appreciates the ability to provide input, the HSI is ultimately under the regulatory authority of CDFA, not CalRecycle.</p> <p>Regarding quarantine guidance, Section 18983.1(b)(6)(A) refers to the land application of green waste or green material that shall have been processed at a solid waste facility as defined by Section 40194 of the Public Resources Code, if it is to count as a reduction in landfill disposal. It is the responsibility of the solid waste facility to legally comply with the movement of materials as it relates to quarantine zones. Article 3 also allows jurisdictions to dispose of quarantine material if CDFA and the agricultural commissioner requires it. The SB 1383 regulations are specifically intended to address the state’s goals for reducing organic waste disposal and the reduction of short-lived climate pollutants. While those goals may overlap with the purview of sister agencies, it is not the intent of these regulations to address every aspect of organics management throughout the state. As noted above, CalRecycle regularly works with CDFA as well as other sister agencies to ensure coordination with existing regulations and statute.</p>
4263	CRRRC State (Lynch, K, CRRRC State)	<p>Procurement Limitations CalRecycle must take markets seriously. To that end, we recommend that SB 1383 include a market development advisory body comprised of industry, commodity and other stakeholders with technical expertise to communicate with the public and policymakers on the status of markets.</p>	<p>CalRecycle generally supports open communication between all stakeholders involved, and the feedback gained through the informal and formal workshops of SB 1383 regulatory development has been instrumental in guiding the procurement requirements. Once the regulations are finalized, CalRecycle plans to develop tools and guidance for jurisdictions and other stakeholders. CalRecycle disagrees with revising the regulatory language to include a “market development advisory body” as it is unclear what distinct purpose this would serve that is not already being addressed through the rulemaking process.</p>
4264	CRRRC State (Lynch, K, CRRRC State)	<p>Procurement Limitations We also recommend in the definition and procurement section that the definition of “comparable virgin products” needs revision.</p>	<p>The term “comparable virgin products” is not found in the current version of the draft regulations. The term was introduced in previous draft language but has since been removed. Please refer to section 18993.1(j) for updated language.</p>

Comment Number	Received From	Question/Comment	Response(s)
		Watershed protection and restoration using compost is critical to further clarify this definition.	
4265	CRRRC State (Lynch, K, CRRRC State)	<p>Confidential, Proprietary or Trade Secret Data</p> <p>We are concerned that the level of information required to be provided by waste haulers and other entities may include confidential, proprietary or trade secret data that needs protection. At the outset of this regulatory process, stakeholders were given assurance that information reported to CalRecycle under the SB 1383 regulations would be managed under substantially the same process that the AB 901 regulations follow. However, while those regulations specifically state that a reporting entity is not required to designate as “protectable” certain highly sensitive information for it to remain confidential (and not subject to public disclosure) when provided to or shared by CalRecycle, these (SB 1383) regulations do not contain the same language. Protecting such information is just as vital in the context of the SB 1383 process as it was in the AB 901 regulations. We therefore urge that the draft regulations be modified accordingly. Note also that the protection must extend to information supplied to CalRecycle, or shared any other governmental agency, including local jurisdictions.</p>	<p>CalRecycle changed the requirement for a “written report” to a “written record” in 18995.1(c) to make clear that information gathered during inspections such as route reviews and compliance reviews is not required to be disclosed in a public report. These are written records that are to be maintained in the files of the local jurisdiction. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction.</p>
4266	CRRRC State (Lynch, K, CRRRC State)	<p>Complaints of Alleged Violations by Jurisdictions and Entities</p> <p>To avoid erroneous complaints by industry competitors and citizens, this section should include the requirement that accusations or any violation be based on “credible evidence”. This aligns with 40 CFR referenced by enforcement actions taken by USEPA and state and local enforcement actions regulating greenhouse gas and other air quality pollutants.</p>	<p>A change to the regulatory text is not necessary. Section 18995.3, Jurisdiction Investigation of Complaints of Alleged Violations, requires a jurisdiction to provide a procedure for the receipt and investigation of written complaints of alleged violations. This procedure shall require the complainant, if not submitted anonymously, to include pertinent information such as relevant facts, photos and witnesses. The jurisdiction shall use this information to determine the credibility of the evidence and if an investigation is warranted. This process is based on a long-standing model (originally implemented in 1977) for Local Enforcement Agencies responses to solid waste facility complaints. This long-standing model does not include the requirements that accusation or any violation be based on “credible evidence”. However, this section was amended during the rulemaking process to add procedural safeguards to avoid forcing jurisdictions to investigate complaints where allegations are contrary to facts known to the jurisdiction and/or the complainant fails to meet other requirements meant to ensure that a jurisdiction has a base level of information to work with.</p>
4267	CRRRC State (Lynch, K, CRRRC State)	<p>Bi-Weekly Collection, Organics Definition and Waivers Refuse containers will always contain some manner of putrescible waste, especially human and pet fecal matter. Bi-weekly collection of refuse containers could put human health and safety at risk in these circumstances and should be considered.</p>	<p>Nothing in the regulations exempts jurisdictions from existing public health and safety requirements regarding the requirement to collect waste in a manner that does not create threats to public health and safety. The language regarding collection waivers specifies that the jurisdiction must demonstrate to the enforcement agency that a collection frequency waiver will not impact the receiving solid waste facilities ability to comply with solid waste facility permitting standards related to protecting public health and safety from the handling of solid waste. CalRecycle cannot verify that a green or gray container would not include putrescible waste, it is likely that at least one container, which ever contains food will be putrescible. Which is why approval for 14 day collection is subject to review by the EA.</p>
4268	CRRRC State (Lynch, K, CRRRC State)	<p>Bi-Weekly Collection, Organics Definition and Waivers As it pertains to the definition of organics, we remain concerned that the definition is inconsistent with other statutory definitions. It also includes materials that often cannot be accepted in our</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>collection streams, such as “organic carpet and textiles”. It is not currently feasibly for a generator, curbside collector or processor to distinguish between organic and non-organic textiles and carpets without testing. This material is also potentially a physical contaminant in our organic feedstocks for composting and anaerobic digestion, threatening our ability to meet physical contamination standards. Furthermore, many technologies that manage greenwaste and food waste cannot readily accept paper waste. In other words, this definition does not readily translate to technology needs and could be confusing to the public, potentially sending the wrong signal for highest and best use for this stream. Consistency and simplicity in terminology is important as the outreach and educational component is developed with the public and other stakeholders.</p>	<p>means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Comment noted. The regulations are structured to specify material that cannot be collected in certain containers, e.g. glass cannot be collected in green containers with organic waste. Further, the regulations define organic waste however they do not specifically require organic specific materials to be collected together, e.g. the regulations do not require food and textiles to be collected together. The regulations allow jurisdictions to source separate materials that are recoverable when mixed together.</p> <p>The definition of organic waste itself does not govern how specific types of materials are handled. The definition identifies which materials are organic waste. The active text of the regulation, not the definition, controls how material is handled. Nothing in the regulatory text requires textiles or dead animals to be placed in the green container.</p> <p>Textiles and carpets are not normally accepted by organic waste recycling facilities such as composting or in-vessel facility that takes materials in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.</p> <p>While carpets and textiles may be handled in a different manner, some jurisdictions may allow them to be placed in the gray container. Carpets and textiles are allowed in the gray container regardless of where the contents of the container are subsequently managed i.e. if these are the only organic wastes allowed in the gray container the container does not have to be transported to a high diversion organic waste processing facility.</p>
4269	CRRRC State (Lynch, K, CRRRC State)	<p>Bi-Weekly Collection, Organics Definition and Waivers Finally, we note the discussion and definitions framed for waivers and exemptions but believe more clarity is needed. For example, consistency with existing definitions of disadvantaged communities will need to be considered. There are also many variables in communities that do not lend themselves to a simple population threshold. For example, we question how certain communities that have state facilities, like prisons, hospitals, or resort communities with a transient and seasonal population might be considered under the waivers and exemptions granted by the department. More clarification is needed as population numbers are calculated.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4270	CRRC State (Lynch, K, CRRC State)	<p>Administrative Civil Penalties</p> <p>While we support enforcement provisions for SB 1383, to ensure that jurisdictions, operators, and generators comply with the intent of the law, we believe that the penalty table is premature at this juncture, without any knowledge of how the regulatory provisions will play out in the real world. We recommend that CalRecycle defer regulations on penalties, until we have viable programs in place, markets developed and a better sense of where the program successes and barriers are. At that time, the agency will have a clearer understanding of appropriate penalty levels for various infractions. This will also allow stakeholders more time to share what levels they feel are appropriate for their generators and communities.</p>	<p>A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.</p>
4271	CRRC State (Lynch, K, CRRC State)	<p>First, we believe the regulations as currently drafted are overly prescriptive and potentially detrimental to current and future programs and infrastructure development. The "regulatory approach" identified assumes that a one-size-fits-all scenario will achieve the organic recycling goals outlined in SB 1383. We challenge that assumption and encourage CalRecycle staff to consider a regulatory framework with measurable performance targets based on actual capacity and available markets within given jurisdictions and communities.</p>	<p>Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.</p>
4272	CRRC State (Lynch, K, CRRC State)	<p>This will require a comprehensive 2018 Waste Characterization Study, to provide an accurate baseline upon which jurisdictions can project future targets, as well as a more refined mapping tool from CalRecycle moving forward. This framework concept would allow jurisdictions, as done through AB 939, to develop their own program for organics collection and processing that is designed for their regional needs and variances.</p>	<p>Comment noted, CalRecycle performed a waste characterization study in 2018.</p>
4273	CRRC State (Lynch, K, CRRC State)	<p>Second, we understand that contamination is a significant hurdle in properly managing organics collection. How a jurisdiction and collection program manage this issue should be flexible and adjustable based on local needs. We believe a robust education and outreach program, supported by CalRecycle, is the best means of achieving reduced contamination in our programs. As mentioned in a previous letter, education should occur long before the customer is placing their organics in the appropriate container.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization</p>
4274	CRRRC State (Lynch, K, CRRRC State)	<p>The inflexible proposed regulatory language regarding how a hauler should inspect and report contamination at the curb is problematic and puts the hauler in the position of policing customers. Jurisdictions may choose to employ comparable methods in their own agreements, but this should not be mandated at the State level. Flexibility in program design will be key to meeting the goals of SB 1383. Educational outreach should commence well before the formal implementation occurs, and we would encourage the state to reconcile the various implementation challenges and dates that might be inconsistent with the timelines anticipated in SB 1383.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p>

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			<p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4275	CRRRC State (Lynch, K, CRRRC State)	<p>Additionally, the proposed language regarding labelling requirements is short-sighted and potentially disruptive to current and future programs. The proposed requirements do not consider different container types, sizes or even new technologies (such as barcodes for scanning). Furthermore, labelling in such a manner would cost approximately \$2 more per container, which is considerable cost for program compliance. What if images need to be altered due to market shifts or programmatic changes? The prescriptive nature of the proposed language does not guarantee that we will meet programmatic goals. Jurisdictions need the flexibility to adjust their programs based on actual capacity, infrastructure, collection methods, processing methods, and market conditions.</p>	<p>Thank you for the comment regarding the additional time, great cost savings, and easier compliance with the container color and label requirements. That comment is in support of current language.</p> <p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
4276	CRRRC State (Lynch, K, CRRRC State)	<p>Third, funding and incentives are crucial to building successful organics management programs at the local level, especially considering the education and oversight necessary to engage with regulated entities and the general infrastructure needed. Given the scarcity of facilities available to manage our organic waste stream, we will not be able to meet our 2020 diversion goal. For that reason, we must design a regulatory scheme that is supportive and supplements current infrastructure, not a punitive system that constrains the industry from achieving more. More financial support from the State is necessary.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4277	CRRRC State (Lynch, K, CRRRC State)	<p>Finally, it is essential that these regulations serve to strengthen and empower collection programs if we are to achieve our ambitious diversion targets. There is no assurance that the prescriptive language proposed will get us to our goals. The language is short-sighted and fails to capture future innovations in processing technology. In fact, some facilities currently managing organics do not fall under the identified approved facility list. Essentially, as written, these regulations would cause some facilities to no longer be a viable management option, further harming the little infrastructure currently available.</p>	<p>Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.</p>

Comment Number	Received From	Question/Comment	Response(s)
4278	CRRRC State (Lynch, K, CRRRC State)	We urge CalRecycle to initiate this program with a “good faith effort” approach to foster participation and outreach and build on a familiar and successful framework.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
4279	CRRRC State (Lynch, K, CRRRC State)	We remain concerned that the definition of Organic Waste is too broad and that not all organic feedstocks are created equal and have varying management techniques. Textiles, for example, cannot be readily accepted and processed at compost facilities. We also question the inclusion of fiber and request a more detailed definition of fiber. Does this include soiled-paper? How does fiber differentiate from traditional paper recyclables? What about the inclusion of manure and biosolids, two material types that have traditionally been managed by land application? This definition fails to capture the real-life management differences required for these varying materials. Feedstocks also have varying methane generating potential. Overall, we are concerned that the Organic Waste definition is confusing to the public who will believe their collection system should accept all these materials in one bin. Infrastructure managing certain material feedstocks, such as food scraps, requires more stringent regulatory obligations and should be incorporated into capacity planning for local jurisdictions.	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Comment noted. The regulations are structured to specify material that cannot be collected in certain containers, e.g. glass cannot be collected in green containers with organic waste. Further, the regulations define organic waste however they do not specifically require organic specific materials to be collected together, e.g. the regulations do not require food and textiles to be collected together. The regulations allow jurisdictions to source separate materials that are recoverable when mixed together.</p> <p>The definition of organic waste itself does not govern how specific types of materials are handled. The definition identifies which materials are organic waste. The active text of the regulation, not the definition, controls how material is handled. Nothing in the regulatory text requires textiles or dead animals to be placed in the green container.</p> <p>Textiles and carpets are not normally accepted by organic waste recycling facilities such as composting or in-vessel facility that takes materials in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.</p> <p>While carpets and textiles may be handled in a different manner, some jurisdictions may allow them to be placed in the gray container. Carpets and textiles are allowed in the gray container regardless of where the contents of the container are subsequently managed i.e. if these are the</p>

Comment Number	Received From	Question/Comment	Response(s)
			only organic wastes allowed in the gray container the container does not have to be transported to a high diversion organic waste processing facility.
4280	CRRRC State (Lynch, K, CRRRC State)	There is no definition for “high diversion mixed waste processing facility”. This facility needs to be defined.	<p>A change to the regulatory text is not necessary. “The term” high diversion mixed waste processing facility” is not used in the proposed regulations. The term “high diversion organic waste processing facility,” which is used is defined in Section 18982.</p> <p>A change to the regulatory text is not necessary. The term “High Diversion Organic Waste Processing Facility” refers to transfer/processing facilities that meet the 50% by 2022 or 75% by 2025 organic waste recovery efficiency standard for a mixed waste organic (MO) collection stream. The 50/75% refers to recovery of organic waste after processing of material from the MO collection stream.</p>
4281	CRRRC State (Lynch, K, CRRRC State)	What do you mean by, “has been processed by landfill disposal” as part of the definition for “residual organic waste”? How would residual material containing organics from other facilities be defined?	<p>The comment is not relevant for the following reason: The commenter has incorrectly quoted the definition for “Residual organic waste”. Below is the actual definition from the proposed regulation text. In this regard, the second question in the comment is irrelevant.</p> <p>(63) “Residual organic waste” means waste that remains after organic waste has been processed which is then sent to landfill disposal.</p>
4282	CRRRC State (Lynch, K, CRRRC State)	Commencing January 1, 2020, the use of green material as alternative daily cover does not constitute diversion through recycling per AB 1594. We note that the regulation language expands on this law and proposes that any organic waste used as ADC, AIC, or beneficial reuse will no longer count toward diversion. We question whether these regulations should be used to redefine the definition of disposal. We believe that organic waste used for beneficial reuse at the landfill, such as slope stabilization or revegetation, is a viable diversion strategy. In fact, beneficial reuse in this fashion is akin to Caltrans using this material for a similar purpose.	<p>SLCP proposed regulations is not expanding on AB 1594 or redefining the definition of disposal for purposes of that law.</p> <p>The proposed regulations allow for organic waste used at a landfill as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping if the material is used in a manner that complies with Section 18983.1(b)(5).</p>
4283	CRRRC State (Lynch, K, CRRRC State)	It is important to note that land application is not defined as a “reduction of landfill disposal,” despite it being a primary management technique for biosolids, manure and compostable materials. Nor is land application defined as “landfill disposal” in the section above. This issue must be resolved moving forward. Furthermore, the facilities listed do not capture all the methods used today in managing organics. In fact, operations that qualify as “recycling centers rarely, if at all, manage organic material. Most of these facilities are buyback centers managing BCRP containers. This language is restrictive and does not consider present and future facilities process material for animal feed, as one example. End of the day, these regulations should encourage more development, not shutter facilities currently diverting and managing organics.	<p>CalRecycle concurs that maintaining flexibility for other recovery processes, not specifically identified in section 18983.1(b), which may constitute a reduction of disposal of organic waste and can achieve equivalent greenhouse house gas reduction that meets or exceeds the baseline of 0.30 MTCO₂e per short ton, the proposed regulations include Section 18983.2 which provides this pathway.</p> <p>In response to stakeholder comments, Section 18983.1(b)(6) was added to clarify when the land application of organic materials counts as a reduction in landfill disposal. More specifically, section 18983.1(b)(6)(A) address the requirements for green waste applied to land, Section 18983.1(b)(6)(B) addresses biosolids applied to land, and Section 18983.1(b)(6)(C) addresses digestate applied to land.</p> <p>Section 18983.1 (b)(1) – (b)(7) clarifies what type of various activities and technologies count as a reduction in landfill disposal. Subdivision (b)(7) specifies that the lawful use of organic waste as animal feed constitutes a reduction in landfill disposal since it directly supports the state’s effort 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. Additionally, Section 18983.2 provides a pathway for determining if a technologies not specifically listed within these regulations can be deemed to constitute a reduction in landfill disposal of organic wastes to ensure flexibility and to not restrict any viable options.</p>

Comment Number	Received From	Question/Comment	Response(s)
4284	CRRRC State (Lynch, K, CRRRC State)	<p>Page 6-7, Source-separated Organic Waste Collection Service</p> <p>We take issue with this entire section in its prescriptive and restrictive nature. How a jurisdictional program collects material and labels collection containers should be determined at the local level. Some communities, for example, have already invested in split-carts to collect organic waste. This is not a one-size fits all scenario. This section alone could incur significant costs and negatively impact collection programs already in place. We suggest CalRecycle offer recommended guidelines to jurisdictions that can be used to inform program development.</p>	<p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement. The regulations allow labels to be applied to existing bins or lids until the containers are replaced either at the end of their useful life or by 2036. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life or by 2036. The regulations allow for split carts. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products.</p> <p>Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036.</p>
4285	CRRRC State (Lynch, K, CRRRC State)	<p>Page 7-8, Contamination of Source-Separated Organic Waste</p> <p>We believe jurisdictions should have flexibility in program design to address contamination management and enforcement. A command and control regulatory approach is misguided, especially given the subjective nature of the proposed language. Last year a Seattle judge ruled a new ordinance that allowed garbage collectors to look through customers' bins, to make sure food scraps were not going into the garbage, as "unconstitutional and void." The judge wrote in her decision that "the city could not explain how inspectors can compute the 10 percent limit without searching through a resident's garbage bags." We understand proposed regulatory language is for the organics bin, not garbage, but the language forces haulers to share personal customer information to jurisdictions if contaminated waste is found, which includes residential information. We are concerned about privacy violations and the State forcing haulers to police customers. Also, this methodology is also not statistically valid and will not necessarily lead to reduced contamination. This could also pose a health and safety risk to drivers if they are</p>	<p>Comment noted. CalRecycle will be conducting a statewide education campaign. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>expected to touch waste material. To address contamination issues, CalRecycle should be supporting a comprehensive statewide education and outreach plan to apprise the public of this important change in law.</p>	<p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in 31 Section 18982 (a)(65) which allows the use of cameras to determine container contamination. In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization</p>
4286	CRRRC State (Lynch, K, CRRRC State)	<p>Page 8, Mixed Waste Organic Collection Services CRRRC members across the State already engaged in organics collection employ several processing methods, including mixed-waste processing. In some cases, both source-separated materials and mixed-waste materials are managed in the same facility, supporting even higher diversion percentages than if source-separated material alone was managed. We are very concerned about the language that prohibits mixed-waste processing infrastructure to be built post 2020 with no proper analysis or explanation. This regulatory package should not be a vehicle for the CalRecycle to pick winner and loser technologies, especially when the future of these technologies is unknown. We support programs built on clear diversion targets for jurisdictions based on their feedstocks, processing capacity, and market access.</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019: "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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis."</p>
4287	CRRRC State (Lynch, K, CRRRC State)	<p>Page 8, Waivers We would like to see self-executing language whereby if a jurisdiction finds that any type of organic waste cannot feasibly be recycled, it may temporarily go to the landfill. This is important for health and safety reasons as the organic waste must go to the landfill if it has no other safe and viable alternative. Also, there is no information regarding the timeline or process for such a waiver, nor why a waiver may be disapproved by CalRecycle.</p>	<p>The regulations allow for a Corrective Action Plan (CAP) that provides additional time under specified conditions regarding delays in securing organics recycling capacity. Additionally, jurisdictions are not required to separate and recover organic waste removed from homeless encampments. While waste removed from homeless encampments or illegal disposal sites does still count as statewide disposal, the jurisdiction is allowed to dispose of the material and is not subject to enforcement for disposing of the material.</p> <p>As stated in the statement of purpose and necessity for the regulations, specifically Article 3, this regulation does not subject jurisdictions to diversion targets. This regulation cannot alter what activities count as disposal under AB 939. Comment noted. Jurisdictions are not required to</p>

Comment Number	Received From	Question/Comment	Response(s)
			pursue compliance with the collection requirements through Article 17 if the jurisdiction is not able to ensure that 90 percent of generators have service. A jurisdiction may comply through providing a collection service that complies with the requirements of Article 3 which allows jurisdictions to provide waivers, including waivers for space constraints or de-minimis material on a case-by-case basis. Regarding quarantined materials, provisions were added to state that this material is not required to be measured as organic waste if it is collected in the disposal container, or if it is disposed at a compost operation or facility.
4288	CRRRC State (Lynch, K, CRRRC State)	Page 9, Organic Waste Recycling and Education Outreach Education and outreach is a critical component to meeting our statewide diversion goals. We support education and outreach and conveying a statewide message about the law and why we are working to divert more organics from CA landfills. While we support the environmental benefits associated with this effort, siting and permitting of compost facilities has significant challenges in terms of air emissions, especially for those located in Federal nonattainment air districts. Relating the public health, safety and environmental impacts associated with the disposal of organic waste fails to address comparable issues we face in building organics management infrastructure. A Statewide public education and outreach initiative could help foster support for these facilities.	CalRecycle is providing educational materials to local jurisdictions and conducting a statewide educational campaign.
4289	CRRRC State (Lynch, K, CRRRC State)	Page 10-11, State Entities and State Facilities We are pleased to see language including State entities and facilities in these regulations. Walking the walk will be crucial in promoting statewide acceptance of organics diversion.	Comment noted. The commenter is acknowledging support.
4290	CRRRC State (Lynch, K, CRRRC State)	Page 12, Organic Waste Recycling Standards and Policies There are circumstances where a facility may no longer be able to accept organic material, therefore forcing a generator to take their material to another facility. The lower recovery rate language is confusing and does not account for extenuating circumstances where a facility may be unable to accept organic waste. This might inadvertently send more organic matter to the landfill if a facility is considered to have a lower recovery rate than the unavailable facility. We recommend this language be removed.	A change to the regulatory text is not necessary. The language referenced was included in a previous version of the regulatory text and has since been revised.
4291	CRRRC State (Lynch, K, CRRRC State)	Page 14, Planning by Cities and Counties We feel strongly that without accurate baseline information, city and counties will have a difficult time planning for organics development. We believe planning should be based off the 2018 Waste Characterization Study as the 2014 study was flawed and does not provide enough feedstock detail for jurisdictions. We also encourage CalRecycle to consider that many local government staff have never sited or permitted a solid waste facility in their lifetime. Support and guidance from the State is critical in getting the additional 200 facilities needed in place by 2025.	It is necessary to use 2014 data because the statutory diversion targets are based on a 2014 baseline.
4292	CRRRC State (Lynch, K, CRRRC State)	Page 16-17, Jurisdiction Inspection and Enforcement Requirements We note that regulated entities include all organic waste generators and that this section proposes a list of all regulated entities. Per the definition, this would include	A change to the regulatory text is not necessary. Section 18995.1 states the jurisdiction shall generate a record for compliance reviews conducted that includes a list of accounts reviewed. A compliance review shall be conducted for all solid waste collection accounts for commercial

Comment Number	Received From	Question/Comment	Response(s)
		the residential sector. Is that your intent? Also, what resources will jurisdictions get to enforce and inspect thousands of businesses? This will be a continual and substantial cost for communities moving forward.	businesses that are subject to its authority and generate two cubic yards or more per week of solid waste, including organic waste. If a jurisdiction is conducting compliance review on its residential generators to comply with organic waste generator requirements set forth in Section 18984.9(a), this record would include residential generators.
4293	CRRRC State (Lynch, K, CRRRC State)	Page 19-22, Enforcement and Penalties There is general confusion around CalRecycle’s role in enforcement for the purposes of this regulation. According to the proposed language, the Department can notice all “regulated entities” and possibly administer penalties for noncompliance. As previously indicated, the proposed regulations include subjective contamination tracking with no statistical reliability. We challenge the assumption that this methodology is sound and enforceable. We also question why enforcement at the local level is being diluted by State oversight. It was our understanding that CalRecycle would have enforcement authority over jurisdictions, and that jurisdictions would have enforcement over regulated entities in their programs.	A change to regulatory text is not necessary. The California legislature has recognized the need for the Department to have oversight and enforcement authority over jurisdictions who have a role in carrying out organic recycling requirements to meet the states mandates. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Also, it is necessary that all entities that are regulated under this Chapter comply with the minimum standards to meet the state mandates. If a jurisdiction is not fulfilling its obligation to enforce the requirements, the Department may intervene and take enforcement action.
4294	CRRRC State (Lynch, K, CRRRC State)	We believe that contamination should be dealt with at the local level through their own processing agreements.	CalRecycle determined that it is necessary for statewide consistency to include provisions in the regulations to limit container contamination in order to maximize diversion on the front end.
4295	CRRRC State (Lynch, K, CRRRC State)	First and foremost, as we move forward with these regulations and consider how to achieve our ambitious goals, we must align local, regional and state objectives and obligations. Without this collaboration, we will continue to be plagued with siting and permitting issues and a lack of sustainable markets for organics diversion in certain regions. Recently SCAQMD staff, for example, urged for organic waste diversion to be used to create biofuels or zero or near-zero emission energy production such as fuel cells, rather than composting. This is because of federal nonattainment air quality concerns in the South Coast that make siting composting facilities even more difficult than in other air quality districts. To that end, the AB 1045 process needs to be expanded and should reconvene prior to the formal rulemaking of SB 1383. This is an opportunity to discuss air emissions and contamination on a regional level, from a local air district and water district perspective. Without a collaborative approach, we will have regional gaps in organics management that will prevent us from meeting our diversion goals across the State.	Comment noted. The commenter is expressing an opinion and perspective on local, regional and state collaboration as the AB 1045 process. The comment does not address particular regulatory language changes or pertain to particular regulatory procedures. .
4296	CRRRC State (Lynch, K, CRRRC State)	Additionally, as we have discussed with CalRecycle staff working on AB 901, many of the potential reporting data points are not practicable. For one, reporting tons by origin and source sector/generator type is time-consuming, labor intensive and would produce inaccurate data. We ask that CalRecycle be clear on why they are requesting certain data points. For most facilities, this would be an additional reporting burden that may not translate to increased diversion.	The purpose of the revisions to the reporting requirements for haulers is to ensure facilities are able to manage compliance with the regulatory requirements. The change requires haulers to identify, at the time of delivery to the receiving facility, the type of collection stream delivered. The purpose of the revisions to the reporting requirements for transfer/processors is to ensure each jurisdiction providing a service that combines organic waste with non-organic waste is meeting the requirements of Section 18984.1(c), 18984.2, or 18984.3 of Article 3, and transporting to a high diversion facility is meeting the 50 percent and 75 percent organic content recovery rates defined in Article 6.2 Section 17409.5.1. The purpose of the changes to the reporting requirements for composting facilities and operations is to crosscheck the percentage of organic waste in residuals. The change requires each recycling or composting facility or operation to report the monthly percentage of organic waste contained in residuals. The data required in is

Comment Number	Received From	Question/Comment	Response(s)
			<p>necessary to verify whether the facility is sending more than 20 percent on and after 2022 and 10 percent on and after 2024 of organics waste to disposal, as calculated pursuant to 17869(e)(5) or 17896.45 (a)(1)(E). For inbound organic material, the adopted AB 901 regulations already track potential beneficial reuse green material by jurisdiction of origin. Outside of the requirements that have already been adopted in the AB 901 regulations, source sector/origin data is not part of the proposed SB 1383 amendments to the AB 901 regulations.</p>
4297	CRRRC State (Lynch, K, CRRRC State)	<p>17409.5.7 loadchecking In the same vein, reporting on contamination of loads received is unworkable for many facilities. Facilities and programs may choose to do their own internal reporting on contamination, but this should not be a required reporting point. If made mandatory this would increase facility labor costs, create time constraints, and possibly endanger employees. Who pays for this additional checking and reporting, and who authorizes this activity? How will franchise agreements be affected by this effort? How will seasonal variants in contamination or regional differences be accounted for? If such a requirement is anticipated, funding will be critical to compensate for the additional time and labor to perform tracking and reporting at this level.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
4298	CRRRC State (Lynch, K, CRRRC State)	<p>It should be noted; our facilities must manage and process material in a timely manner to meet permit requirements and agreements. Facilities should be given the flexibility to meet the goals of SB 1383 as is appropriate to their operations, facility limitations, labor concerns, finances, and business agreements. Local jurisdictions and their haulers/processors should be given the flexibility to determine how to incentivize good behavior or discourage poor behavior as it pertains to contamination by residents or commercial businesses.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4299	CRRRC State (Lynch, K, CRRRC State)	<p>Ultimately, we feel strongly that the best way to encourage contamination reduction is through education and outreach. Recycling organics will be become the new normal for California residents, and a comprehensive education and outreach program – supported by the State – will be critical. This should be a priority approach as we move forward. To that end, we recommend CalRecycle explore additional opportunities for education and outreach long before the customers place their waste items in the appropriate container. Consumer education could</p>	<p>CalRecycle is providing educational materials to local jurisdictions and conducting a statewide educational campaign.</p>

Comment Number	Received From	Question/Comment	Response(s)
		occur at retail, farmer’s markets, grocery stores, schools, etc. In addition to proper organics recycling, consumers could learn how to better store their food to reduce spoilage. In this manner, CalRecycle can support upstream shifts in consumer behavior to reduce food waste and reduce overall GHG emissions.	
4300	CRRRC State (Lynch, K, CRRRC State)	We also recommend CalRecycle explore different terminology as it pertains to organics recycling. In transitioning to mandatory recycling of organics, we will need to educate all demographics, ages, cultures, etc., on how to properly manage their organic waste stream. Communities are currently grappling with what language to use, such as food scraps, organics, biodegradables, green waste, etc. This includes multi-lingual messaging. A stakeholder discussion around organics recycling terminology could help support local programs and provide continuity in messaging to support more rapid compliance and understanding across the State.	Comment noted. CalRecycle held a robust two year informal and one year formal public rulemaking process. CalRecycle will also conduct a statewide education campaign.
4301	CRRRC State (Lynch, K, CRRRC State)	Additionally, we caution CalRecycle to allow for an appropriate transition into this effort. If facilities are expected to turn loads away due to contamination, we could inadvertently encourage illegal dumping of this putrescible material. Ultimately, CRRRC members work in materials management and this material must be handled and processed properly to avoid health and safety issues. If the material is not landfilled, it must be processed elsewhere, in an appropriate manner that protects the environment and people. This regulation should serve to encourage and guard these facilities and foster consumer compliance, not hinder their capacity to manage material and encourage illegal dumping.	<p>CalRecycle staff has noted the comment. It is not the intent of these regulations to cause a transfer processing facility or operation to reject any load of waste sent to the facility. It would ultimately be up to the operator to decide what to accept or not accept.</p> <p>The requirement is if the waste is a mixed waste organic collection stream, then it must meet the recovery efficiency rate for organic waste, and the organic waste sent to a secondary facility (compost/ In-vessel digestion) for recovery needs to be less than 20 percent of incompatible material on and after 2022 and 10% on and after 2024, otherwise, there is limitations on where to send the material. Material with more than the acceptable limit of incompatible material must be sent to a Transfer/processing facility that can meet 17409.5.8 or a compost/ In-vessel digestion facility that disposes of no more than acceptable level of organic material in their residual waste stream.</p>
4302	CRRRC State (Lynch, K, CRRRC State)	<p>Strong markets would go a long way in supporting State goals for organics diversion. These markets should be developed regionally to procure material produced locally and reduce transportation costs and vehicle miles traveled. We must look at all regional costs, economic and environmental, that could affect these markets long-term.</p> <p>We strongly support State procurement of organics recycling outputs, such as mulch and compost. It is critical for the State to participate as a leading partner in the process. We can improve our examination and encouragement of this process. For example, a more-detailed analysis of Caltrans purchases broken down by category could be extremely useful to better understand current procurement practices. Same for all State agencies. We all have a crucial role to play in achieving the goals of SB 1383, and the State should serve as an example to all.</p>	<p>CalRecycle agrees. The intent of the procurement requirement is to develop regional markets for recovered organic waste products.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. This is an example of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
4303	CRRRC State (Lynch, K, CRRRC State)	<p>Data Baseline</p> <p>We remain deeply concerned about the baseline organics disposal of 5 million tons annually, as presented by CalRecycle, especially as this number does not account for biosolids, greenwaste ADC or AIC, and digestate landfilled in 2014. The 2014 Waste Characterization study was also flawed, with data skewed in Southern California.</p>	The 2014 waste characterization was one source of data used to determine the baseline level of organic waste disposal in the year 2014. The 2014 waste characterization study was produced prior to the adoption of SB 1383 in 2016. The waste characterization study is an estimate based on surveys, CalRecycle has not claimed that the study represents an exact or perfect number of organic waste disposal tons that occurred in California in 2014; however, the study represents the

Comment Number	Received From	Question/Comment	Response(s)
		The baseline should be adjusted to include all organic material as defined by the regulations so that we can begin with an accurate and credible reference point.	most comprehensive estimate of waste disposal for California in 2014. The same study is also relied upon to set targets for AB 1826 which has a 2014 baseline linkage as well. CalRecycle's use of the 2014 study for the 1826 targets was public prior to the adoption of SB 1383. There is no evidence that the Legislature intended that CalRecycle take a different course and disregard the body of evidence compiled in the waste characterization study. However, CalRecycle did not solely rely upon the waste characterization study. CalRecycle supplemented the waste characterization study data with data from the Disposal Reporting System (now the Recycling Disposal and Reporting System) regarding disposal of organic waste as alternative daily cover (ADC) or alternative intermediate cover (AIC). CalRecycle additionally relied upon data provided by the wastewater industry regarding the disposal of biosolids including the disposal of biosolids as ADC and AIC.
4304	CRRRC State (Lynch, K, CRRRC State)	The definition of organics is a critical issue as it impacts a multitude of regulatory issues, including reporting for AB 901 and whether we are meeting the goals of AB 1826. It is imperative that this definition be aligned with these efforts, as well as work for the local jurisdictions expected to meet regulatory obligations. A consistent definition is essential to reducing confusion and supporting participation. As CRRRC staff addressed in the June 21st workshop, biosolids, sludges and digestate have not previously been defined as MSW organic waste and were not captured in the 2014 Waste Characterization study. We also question how material that has already gone through a digestive process, such as anaerobic digestion, differ or not from material that has not gone through a methane extracting process. CRRRC members have also expressed concern with the inclusion of carpet in the organics definition given that most modern carpet is synthetic in nature and already has its own Extended Producer Responsibility model for tracking and reducing this material going into the landfill. Also, most facilities are unable to accept carpet in the green bin and this creates unnecessary confusion around how the material should be managed. Textiles pose a similar issue in terms of contamination in our organic waste management streams. We encourage CalRecycle to reconsider how the aforementioned material types fit into the organics definition given the overarching goals of SB 1383 and additional regulatory obligations.	Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
4305	CRRRC State (Lynch, K, CRRRC State)	Coupled with the organics definition, this is a critical issue that must be resolved before SB 1383 regulations are finalized. As CRRRC staff have publicly addressed, the baseline number extracted from the 2014 Waste Characterization study does not capture new material types like biosolids, sludges, and digestate that may be considered part of the organics definition. Nor did the 2014 study capture greenwaste ADC tonnages. Clearly, if we are to meet our regulatory obligations, the baseline allowable tonnage should capture the whole of organics as defined through these regulations. To that end, we recommend CalRecycle use the 2018 Waste Characterization Study (which is being re-focused to address the goals of SB 1383) to readjust the baseline tonnage for accuracy and to define an achievable goal. This adjustment would need to capture any reductions in organics to the landfill from	A change to the regulatory text is not necessary. A text change is not necessary for the following reason: As the 2018 Waste Characterization Study is still pending completion, that data is not available for consideration. However, once the data does become available, CalRecycle will use the data to help fine-tune potential goals. For the purposes of these regulations, the biosolids data were gathered from US EPA and the California Associate of Sanitation Agencies. For 2014, the reported number was 173,000 dry metric tons (ADC 113,000 and landfilled 60,000).

Comment Number	Received From	Question/Comment	Response(s)
		<p>2014 to 2018. This may require legislative, regulatory or administrative adjustments, but is imperative if we are to meet our regulatory and statutory obligations. Additionally, we encourage CalRecycle to utilize the 2018 Waste Characterization Study as an opportunity to better break down what organic material types continue to be landfilled. The 2014 Waste Characterization identifies an “other” category of 19% organic material that needs to be identified for the purposes of these regulations.</p>	
4306	CRRRC State (Lynch, K, CRRRC State)	<p>This issue will be addressed in the August 16th workshop, but at this time we recommend that any SB 1383 reporting be aligned with AB 901 reporting or otherwise. We advise against any duplicative reporting or accounting as this is costly, time-consuming and burdensome to the industry. This reporting should be streamlined and consistent with any other reporting obligations. We also need credible data to inform future policy objectives and accurately measure progress toward state environmental goals.</p>	<p>Reporting for haulers and solid waste facilities is currently aligned with the adopted AB 901 regulations. The proposed reporting requirements do not ask for data that is already reported through the AB 901 reporting requirements.</p>
4307	CRRRC State (Lynch, K, CRRRC State)	<p>17409.5.7 loadchecking While we recognize contamination is a critical issue, this should be managed at the local level as each process, collection method and jurisdiction is different. To that end, front-load checking and recordkeeping is not feasible for a variety of reasons, including cost, time limitations and safety concerns. We recommend, and will work with CalRecycle staff, to speak directly to operators of material recovery facilities to better understand how to tackle this difficult issue at the local level. Furthermore, incentives could further this effort in that reducing contamination will naturally require more processing, time and investment to reach these goals.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p> <p>The purpose of this section is to determine how effective organic waste is being recovered and use the results to gauge the accuracy of the jurisdictions container contamination minimization results that send their waste to that specific facility. The result from the above measurements independently will help provide an overview of how the jurisdictions and facilities are doing and allow to cross-check the measurements, even though it is not per jurisdiction. In addition to providing information on the type and quantities of organic waste not being recovered for possible future regulations in order to help recover those materials.</p>
4308	CRRRC State (Lynch, K, CRRRC State)	<p>CRRRC staff have publicly addressed the concern that SB 1383 regulations, if too prescriptive, will actually do more harm than good when it comes to established infrastructure and investments. What the industry requires are more incentives, not punishment, as it pertains to better recovery rates and the reduction of contamination. This is especially important for mixed-waste processing facilities built with the intention of capturing more material to divert greater tonnages in particular jurisdictions.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The Legislature set very ambitious organic waste diversion targets in SB 1383 to be achieved on a very short timeline. As such, the provisions of the proposed regulations, while prescriptive, are designed to achieve these targets in a timely manner consistent with the statutory mandate. It is unclear how the example of diversion credit would achieve this.</p> <p>The provisions of Section 40004 are general legislative findings and declarations applying to the AB 341 (2011) mandatory commercial recycling program and not specific, affirmative legal requirements CalRecycle is required to adhere to in the proposed regulations. SB 1383 contains specific mandates on organic waste diversion that CalRecycle is required to observe in this rulemaking. The findings and declarations in Section 40004 recognize that adequate processing and composting capacity are essential for diversion and disposal reduction.</p> <p>CalRecycle does not dispute this necessity. But CalRecycle is also more specifically subject to the findings and declarations in SB 1383 (2016, PRC Section 42652) that state that the disposal reduction targets in SB 1383 are essential to achieving the statewide recycling goal of 75% in PRC Section 41780.01 and that significant investment is required to meet these goals and that state and local funding mechanisms are needed to support this expansion. The Legislature acknowledges in this section that infrastructure investment and capacity is a central issue to the success of SB 1383. Since the specific controls the general and the more recent statute controls under common rules of statutory construction, CalRecycle does not find a conflict with Section 40004.</p>
4309	CRRRC State (Lynch, K, CRRRC State)	<p>SB 1383 regulations need to account for regional differences as we move forward with diverting organics from CA landfills. Each jurisdiction has its own unique markets, infrastructure capacity, processing ability, transportation costs, and distinct generators. With the Electronic Annual Report (EAR) capturing AB 876 requirements this year, CalRecycle should perform a comprehensive analysis of current organics management capacity around the state and incorporate the realities of that infrastructure into the regulatory process for SB 1383. This may mean extended lead time, and incentive opportunities, for those communities that lack the capacity to manage organics effectively. The expression “cart before the horse” is appropriate here, should communities be enforced to collect organics long before they have the appropriate outlets to manage this material. While we commend the laudable goals of SB 1383, the reality is that landfills were built to protect human and environmental health and safety and without proper facilities to manage the material we risk disrupting this important effort.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA’s definitions (see</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383’s organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4310	CRRRC State (Lynch, K, CRRRC State)	Furthermore, efforts like the AB 1045 process, intended to encourage siting and permitting of facilities, has stalled with little to no efforts made. Collaborating with local air and water districts, as well as CARB and the SWRCB, is imperative if we to make tangible gains in infrastructure development. January 1, 2022 is an incredibly	Comment noted. The commenter is expressing an opinion regarding the implementation timeline for the regulations. The January 1, 2022 date is specifically reflected in statute.

Comment Number	Received From	Question/Comment	Response(s)
		short timeline given the realities of siting and permitting barriers for many communities.	
4311	CRRRC State (Lynch, K, CRRRC State)	Local control, enforcement and management of organics must be retained. This includes relationships with LEAs, local government, and public or private haulers and processors. While some stakeholders have suggested that CalRecycle directly enforce, for example, cross-jurisdictional generators, we disagree. This will only create confusion and the sharing of misinformation as we move forward with these regulations. As mentioned before, each jurisdiction has its own unique issues that need to be addressed at a local level in order to create the appropriate outreach and program development.	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.
4312	CRRRC State (Lynch, K, CRRRC State)	We encourage CalRecycle to focus on the end-goal of SB 1383 with positive efforts to improve end-use markets and general market development. This is an incredible opportunity to identify challenges and opportunities to build infrastructure and manage the millions of tons of organics that would otherwise go to the landfill. This enormous task will require true collaboration across the regulatory agencies, not limited to CARB, SWRCB and CDFA. We also recommend CalRecycle stay engaged with the dairy digester research and development as that moves forward with CDFA. Ultimately, we are all working toward the goal of methane reduction and these efforts should be better synchronized as we move forward. We urge CalRecycle to avail themselves of the AB 1045 process to better collaborate with additional agencies to achieve success in diverting organics from the landfill.	Comment noted. The commenter is expressing an opinion regarding the need for end-use markets, infrastructure and collaboration but is not suggesting particular regulatory changes or commenting on the regulatory process used.
4313	CRRRC State (Lynch, K, CRRRC State)	Finally, work with disadvantaged communities and their concerns as it pertains to overall waste management must coexist with the efforts of SB 1383. CalRecycle support for education and outreach, as well as siting and permitting, will be crucial moving forward.	A change to the regulatory text is not necessary. The regulations already include provisions related to disadvantaged community engagement.
4314	CRRRC State (Lynch, K, CRRRC State)	Challenges - Regulating three sectors under one regulatory package, local government, haulers and organics processing facilities	Comment noted. Commenter is expressing an opinion regarding the sectors that are subject to the regulations
4315	CRRRC State (Lynch, K, CRRRC State)	Challenges -AB 901 reporting combined with SB 1383 reporting	Comment noted. Comment is not commenting on the regulatory language
4316	CRRRC State (Lynch, K, CRRRC State)	Challenges - Increased rate costs and impact on franchise agreements. Need assurance of rate relief.	Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
4317	CRRRC State (Lynch, K, CRRRC State)	Challenges- Concern whether we are focusing on the correct feedstocks, when certain feedstocks produce more methane than others.	Comment noted. The regulatory text is specifically designed to prioritize or deprioritize certain types of organic waste for specific requirements. For example, organic textiles and carpet, are not subject to the same collection requirements as other types of organic waste. The prioritization reflects the portion of organic waste these materials constitute, which is small, and therefore their total methane generation potential is smaller.

Comment Number	Received From	Question/Comment	Response(s)
4318	CRRRC State (Lynch, K, CRRRC State)	Challenges - Pet waste frequently ends up in green waste containers and continues to be a challenge for the industry	If the Local Enforcement Agency determines that a material type cannot be safely recycled, then a jurisdiction would be allowed to list that material as not acceptable. Additionally, during the informal workshops many other stakeholders stated that they have programs for these material types. Further human and pet waste are not required to be measured as organic waste for the purpose of measuring contamination in 18984.5.
4319	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - Need clarification that C&D operations are excluded from these regulations	Section 18988.1 clarifies that a hauler is not subject to this section if the hauler is lawfully transporting construction and demolition debris in compliance with Section 18989.1. The regulations do require that C&D operations recycle the organic waste material that is in the C&D.
4320	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - ADC model should follow AB 1594. MRF fines, processed C&D waste materials and materials left over from the composting process (e.g. compost overs) should not could as disposal for the purposes of SB 1383.	Comment noted. The use of organic waste as alternative daily cover constitutes landfill disposal of organic waste. Language was added to clarify that use of non-organic materials does not constitute landfill disposal of organic waste. Facilities are not required to remove organic material from MRF fines. Facilities are required to sample material they send to disposal to determine the portion of organic waste they are sending to disposal. Pursuant to the sampling requirements in the regulations a representative sample of material sent to disposal must be sampled to determine the level of organic waste disposed. This includes sampling of material sent to for use as alternative daily cover. Only the organic fraction of the material sent to disposal is measured as disposal of organic waste. Language was added to clarify that disposal of non-organic materials does not constitute landfill disposal of organic waste.
4321	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - May need to add appendix with additional definitions, especially in terms of procurement material. Examples include: green infrastructure, low impact development, natural capital, ecosystem services, sustainable management practices (SMP'S), engineered soils, soil carbon storage, carbon sequestration, resilient infrastructure, and living infrastructure.	The proposed definitions are unnecessary since these terms do not appear in any meaningful way in the regulatory language
4322	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - Any complaints in terms of enforcement action need to be based on "credible evidence".	A change to the regulatory text is not necessary. Section 18995.3, Jurisdiction Investigation of Complaints of Alleged Violations, requires a jurisdiction to provide a procedure for the receipt and investigation of written complaints of alleged violations. This procedure shall require the complainant, if not submitted anonymously, to include pertinent information such as relevant facts, photos and witnesses. The jurisdiction shall use this information to determine the credibility of the evidence and if an investigation is warranted. This process is based on a long-standing model (originally implemented in 1977) for Local Enforcement Agencies responses to solid waste facility complaints. This long-standing model does not include the requirements that accusation or any violation be based on "credible evidence". However, this section was amended during the rulemaking process to add procedural safeguards to avoid forcing jurisdictions to investigate complaints where allegations are contrary to facts known to the jurisdiction and/or the complainant fails to meet other requirements meant to ensure that a jurisdiction has a base level of information to work with.
4323	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - In some cases, a three-container/four-container organic waste collection service will increase truck traffic and may be directly in conflict with state energy and emission reduction goals.	Comment noted. With respect to comments on environmental impacts these comments should be made during the appropriate comment periods associated with the Environmental Impact Report process under CEQA. The potential for any impacts on the overall GHG reductions resulting from any increase in VMT are thoroughly discussed in the Final Environmental Impact Report for this project

Comment Number	Received From	Question/Comment	Response(s)
			<p>The SRIA and the Appendix to the ISOR note that a specific increase or decrease in Vehicle Miles Traveled (VMT) could not be projected. This assessment remains true today, as noted in the Final Program Environmental Impact Report for SB 1383 Regulations—Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction:</p> <p>“Decisions by project proponents regarding the choice of compliance options and the precise location of new or modified facilities related to implementation of the proposed regulation cannot be known at this time. Furthermore, due to local planning, political (i.e., the willingness of jurisdictions to address local opposition to the siting of new or expanded facilities), and economic influences, attempting to predict project approvals about the specific location and design of facilities and operations undertaken in response to the proposed regulation would be speculative and infeasible at this stage...”</p> <p>The commenter assumes that absent an explicit calculation of VMTs, CalRecycle has failed to account for potential fuel costs associated with hauling organic material. This assumption is inaccurate. CalRecycle notes that the projected collection costs disclosed in Table 3 of the SRIA, and in Tables 7 and 8 of Appendix to the ISOR, include increased fuel costs associated with recycling.</p> <p>While this is not a direction calculation of VMT this cost does account for the costs associated with increased fuel purchases associated with increased hauling. Additionally, CalRecycle provided a cost sensitivity analysis in the Appendix to the ISOR which estimates a range of transportation costs (including fuel costs). A sensitivity analysis is provided as specific estimates of VMT would be speculative. In the Appendix to the ISOR CalRecycle notes:</p> <p>The collection costs calculated in the original SRIA, and shown in the following Collection and Processing of Organic Waste section, relied upon values derived from Cost Study on Commercial Recycling prepared by HF&H Consulting and Cascadia Consulting Group for CalRecycle. The values in the cost study included fuel costs associated with collecting organic waste as a part of the total cost of collection. In this analysis, CalRecycle has additionally included data available from the cost study to project a range of potential costs associated with transporting finished products (e.g. compost, recycled paper, etc.) to market.</p> <p>While fuel costs were included in the original SRIA, this analysis shows a range of additional potential cost scenarios.</p> <p>The Cost Study on Commercial Recycling provides a statewide weighted average cost per ton for transporting a range of recovered commodities to market. The transportation costs represent the cost of delivering finished product to market. (As noted above, the fuel and transportation costs associated with collection are a part of the collection line-item shown in Collection and Processing of Organic Waste). For each material category, the per ton transportation costs include 1) base costs, 2) fuel costs, and 3) hauling costs.</p> <p>Base costs are defined as the minimum charge for picking up the materials from the processing facility. This represents the cost of loading, unloading, queuing, and a minimum travel distance of 10 miles. The fuel and hauling cost components represent the additional cost per ton per mile beyond the minimum charge. The calculator includes per ton costs for various material categories (e.g. compostables, glass, wood waste, etc.). The transportation costs were applied to the</p>

Comment Number	Received From	Question/Comment	Response(s)
			projected tons that would be recovered in each category. The Cost Study on Commercial Recycling, and the O&M costs for compost and AD derived from the SLCP economic assessment, include several similar or duplicative costs associated with collecting material from a facility. This was controlled for in the following low and medium transportation costs summaries. For each sensitivity analysis for transportation costs, slight variations were made to the calculator.” (emphasis added).
4324	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - Unclear who is expected to monitor business and property owners to ensure that are arranging for collection services and providing annual information to their “employees, contractors, tenants, and customers about organic waste recovery requirements” and “proper sorting of organic waste.”	Comment noted. In section 18995.1, jurisdictions are required to complete a compliance review of all garbage accounts for commercial business that generate two cubic yards or more per week of solid waste and produce organic waste to verify they are subscribing to service and educate organic waste generators as prescribed in Article 4.
4325	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - How is the reporting by self-haulers enforced?	Reporting for self-haulers were taken out of the regulations.
4326	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - Education and outreach efforts are a crucial component to the success of SB 1383. Especially for procurement and market development, the agency needs to coordinate with CDFA’s healthy soils program. We also need engagement with entities like the UC land-grant college statewide Cooperative Extension Program at the state and local level.	A change to the regulatory text is not necessary. A text change is not necessary for the following reason. CalRecycle generally agrees that education and outreach are crucial. Regarding coordination with other agencies, CalRecycle participates in the development and implementation of the Healthy Soils Initiative (HSI) and assists the California Department of Food and Agriculture (CDFA) in the following areas: developing reimbursable compost application rates, estimating nitrate loads following compost application, developing the HSI grant application, and including compost application as an eligible soil management practice. Regarding engaging the “UC land-grant college statewide cooperative extension program”, justifications are unclear for this recommendation since the procurement requirements are on jurisdictions, not state agencies or the University of California.
4327	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - How will edible food recovery efforts impact current or future franchise agreements? How will franchise fees be impacted?	CalRecycle cannot make a definitive statement on this because if and how franchise agreements would be impacted could vary significantly from jurisdiction to jurisdiction. Some stakeholders mentioned that some franchise haulers believe edible food is within the scope of their exclusive franchises. In the regulations the definition of edible food specifies that edible food is not solid waste if it is recovered and not discarded. CalRecycle would also like to note that SB 1383 provides a broad grant of authority to jurisdictions to “collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations...” The types of fees a jurisdiction may impose are not limited to tip fees or franchise fees. That said, some jurisdictions in California are already successfully using such fees to fund food recovery operations and activities.
4328	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - CalGreen Building Code is not updated to reflect the procurement and market aspects of SB 1383. Would be beneficial to update the Code in concert with SB 1383 regulations.	CalRecycle will provide input to the Department of General Services (DGS) on any aspects of the CalGreen Building Code requiring update as related to the SB 1383 regulations.
4329	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues- There are serious funding concerns and it appears the only established revenue stream is through enforcement, which could lead to a bounty approach between the department and local jurisdiction or other reporting entities. This is exacerbated by the lack of a “good faith effort” component to the regulations.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383

Comment Number	Received From	Question/Comment	Response(s)
			<p>furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4330	CRRRC State (Lynch, K, CRRRC State)	Outstanding Issues - Need clarification on whether SSO can be processed with other solid waste streams (Section 17409.56)	<p>A change to the regulatory text is not necessary. Source separated organics can be processed with other solid waste streams after sampling has occurred for each waste streams. Until then, waste streams must be processed and kept separate. Otherwise, it would be hard to accurately determine the percentage of actual organic content recovered from each waste stream in order to determine if a facility is meeting the efficiency recovery requirement.</p>
4331	CRRRC State (Lynch, K, CRRRC State)	Page 87, line 3: 10 percent should be replaced with “visible contamination”	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
4332	CRRRC State (Lynch, K, CRRRC State)	Definitions - Replace recoverable with edible food as plate waste is technically edible.	<p>In an early draft of the proposed regulations edible food was defined as: “Edible food” means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, “edible food” is not solid waste if it is recovered and not discarded.”</p> <p>Several commenters made the argument that this definition was too restrictive, because it described “recoverable food” not “edible food.” Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters’ concerns about the definition of “edible food” being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following: “Edible food” means food intended for human consumption. (A) For the purposes of this chapter, “edible food” is not solid waste if it is recovered and not discarded.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>(B) 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.</p> <p>Although the final definition of “edible food” is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities and eliminated the need to provide a separate definition for "recoverable food."</p>
4333	CRRRC State (Lynch, K, CRRRC State)	Definitions - Add definition of “incompatible material” (as described on page 63) to definition section	A change to the regulatory text is not necessary. The term "incompatible material" is only used in 14 CCR Chapters 3, 3.1, and 3.2 (solid waste facility and operations). This definition is applicable to activities that falls within these Chapters.
4334	CRRRC State (Lynch, K, CRRRC State)	Definitions - Definition of “non-local entity” includes “special districts,” which are considered local entities	<p>Thank you for the comment. CalRecycle revised the definition of ‘jurisdiction’ in Section 18982(a)(36) because the original term “handling” as used in the definition is overly broad. This change is necessary to provide clarity. In response to this comment, CalRecycle defined a “special district” as having the same meaning as Section 41821.2 of the Public Resources Code.</p> <p>Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a “special district that provides solid waste collection services” is a jurisdiction.</p> <p>Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction’s regulations related to solid waste. The definition of “non-local entity,” lists special districts as an example of a type of entity that could be a “non-local entity” but it does not definitively state that all special districts are non-local entities. Any special district that is a “jurisdiction” and also a “non-local entity” generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3.</p>
4335	CRRRC State (Lynch, K, CRRRC State)	Definitions - Definition of “organic waste” includes textiles and carpets, which are not required for collection programs. We need a programmatic definition of what is expected to be collected and processed, separate from the overall definition of what organic waste is methane producing.	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Comment noted. The regulations are structured to specify material that cannot be collected in certain containers, e.g. glass cannot be collected in green containers with organic waste. Further, the regulations define organic waste however they do not specifically require organic specific materials to be collected together, e.g. the regulations do not require food and textiles to be</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>collected together. The regulations allow jurisdictions to source separate materials that are recoverable when mixed together.</p> <p>The definition of organic waste itself does not govern how specific types of materials are handled. The definition identifies which materials are organic waste. The active text of the regulation, not the definition, controls how material is handled. Nothing in the regulatory text requires textiles or dead animals to be placed in the green container.</p> <p>Textiles and carpets are not normally accepted by organic waste recycling facilities such as composting or in-vessel facility that takes materials in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.</p> <p>While carpets and textiles may be handled in a different manner, some jurisdictions may allow them to be placed in the gray container. Carpets and textiles are allowed in the gray container regardless of where the contents of the container are subsequently managed i.e. if these are the only organic wastes allowed in the gray container the container does not have to be transported to a high diversion organic waste processing facility.</p>
4336	CRRRC State (Lynch, K, CRRRC State)	Definitions - Definition of "paper products" is included as a subcomponent of "organic waste" definition and makes it appear that these products, e.g. building insulation, should be part of the recoverable organic stream in terms of collection. There needs to be a clear definition for programmatic collection items vs. procurement related items. Moreover, food soiled paper is included as part of the "organic waste" definition for AB 1826. Where do these materials fall under SB 1383?	CalRecycle recognizes that some products made from organic waste (i.e. paper products) are collected and processed differently in California. That is why the procurement requirements are separated into two components: 1) Section 18993.1 Recovered Organic Waste Products, and 2) Section 18993.3 Recycled Content Paper Procurement Requirements. CalRecycle recognizes that recovered paper flows differently from a typical food/green waste collection and processing stream, and therefore has required different elements for the procurement of end products from each stream. For example, recycled content paper is not subject to the in-state diversion requirement that organic waste is, due to the limited in-state infrastructure available for paper processing and the difficulty of verifying the paper was made from in-state recycled paper.
4337	CRRRC State (Lynch, K, CRRRC State)	Definitions - For AD operations different feedstocks are needed	Comment noted. This is not within the scope of the rulemaking.
4338	CRRRC State (Lynch, K, CRRRC State)	Paper should be in the recycling bin not organics	The regulations allow each jurisdiction to decide which recycling container to place paper in. This provision was included in response to previous comments from jurisdictions about the need for such flexibility.
4339	CRRRC State (Lynch, K, CRRRC State)	Definitions - Wood needs further delineation such as untreated wood	<p>The regulations already allow organic waste, which can include non-hazardous wood and dry lumber, to be included in the green container. The regulations also already allow for non-hazardous wood and dry lumber to be included in the blue container.</p> <p>Regarding treated hazardous wood waste, CalRecycle revised Section 18984.1 to add a new subsection indicating that this material should not be allowed in the blue container.</p>
4340	CRRRC State (Lynch, K, CRRRC State)	Definitions - Definition of "prohibited container contaminants" appears to prohibit plastic bags when some collection methods utilize bags to separate green waste from food waste, as an example. Prohibited contaminants will likely be programmatic specific by collection program and require more flexibility.	Comment noted. Many facilities find use of plastic bags in a green container collection streams to be a viable and cost-effective method for recovery organic waste. The regulations specify that the receiving facility must certify that it can process and remove the bags, if the jurisdiction allows bagged collection. Bags are allowed in the three or two container systems as long as the facility can process and remove the bags.

Comment Number	Received From	Question/Comment	Response(s)
		o This section also requires additional language that is consistent with USDA and CDFA quarantine standards.	CalRecycle acknowledges that non-compostable plastic bags can cause problems if not properly managed. The regulations as written allow non-compostable bags to be used as long as the receiving facility can recover the material or similar to other plastic bags the material can be removed as a contaminant from the recovery process. Nothing precludes the jurisdiction from prohibiting non-compostable plastic bags, requiring clear bags, requiring compostable plastic to meet third party requirements, or requiring compostable plastic bags to meet requirements beyond those in Sections 18984.1(a)(1)(A) and 18984.2(a)(1)(C). A facility will not be 'punished' if it chooses to not accept bags, and that plastic bags will not be considered organic waste themselves. The language requires jurisdictions to receive positive notification from the facility indicated that it will accept plastic bags.
4341	CRRC State (Lynch, K, CRRC State)	Definitions - Add definition of "reuse" and "remanufacturing"	Comment does not specifically identify where additionally clarity is needed for textiles and carpets. "Incompatible materials" is defined in Section 17402, "reuse" is an existing regulatory term, it is not added or used in these regulations, the term "remanufacturing" is not used in the regulation.
4342	CRRC State (Lynch, K, CRRC State)	Definitions - Definition of "renewable natural gas" should be consistent with PUC definition and policy goals	The definition of "renewable gas" in the proposed regulatory text is intentionally limited to the provisions of these regulations and the purpose of SB 1383 statute. This definition does not prevent other agencies from defining "renewable natural gas" or "renewable gas" for a different purpose.
4343	CRRC State (Lynch, K, CRRC State)	Definitions - Add definition of "Organic Waste Hauler"	CalRecycle revised the title of Section 18988.2 in response to this comment even though the regulations already have a sufficient definition of 'hauler.' However, Section 18988.2 had the title of 'Organic Waste Hauler Requirements,' even though the term 'organic waste hauler' is not used anywhere else; there is no need for a definition entitled 'organic waste hauler.'
4345	CRRC State (Lynch, K, CRRC State)	Definitions - Need to cross reference the PRC # S40171 to include the definition of pollution	CalRecycle has noted the comment. This is not within the scope of this rulemaking.
4346	CRRC State (Lynch, K, CRRC State)	Landfill Disposal - Watershed protection and stormwater protection that have water related benefits should be added as an activity that constitutes a reduction of landfill disposal	The application of organic waste products is allowed per Section 18983.1(b)(6) as long as it complies with minimum standards of 14 CCR Section 17852(a)(24.5) to ensure the material is used in a manner that is protective of public health and the environment, supports the state's effort to keep organic waste out of landfills and reduces greenhouse gas emissions. In addition, Section 18983.1(b)(5) addresses allowing organic waste products to be used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill.
4347	CRRC State (Lynch, K, CRRC State)	Landfill Disposal - Emergency use, such as post-fire application of compostable material, should be added as an activity that constitutes a reduction of landfill disposal	A change to the regulatory text is not necessary. A text change is not necessary for the following reasons: In the Initial Statement of Reasons, Section 18983.1 Landfill Disposal and Recovery, it is clearly outlined that organic waste that used in land application, regardless if it is fire-related or not, is counted as landfill reduction. Section 18983.1 Landfill Disposal and Recovery, Subdivision (b)(5)(A)-(D) outlines land application, which would include "Emergency use, such as post-fire application..." of organic waste even though not explicitly stated. Subdivision (b)(5) states that: "...this section is to specify that organic waste used as a soil amendment for erosion control, revegetation, slope stabilization or landscaping 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

Comment Number	Received From	Question/Comment	Response(s)
			<p>applications. Since these activities, under the circumstances prescribed in this section, can reduce in 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.”</p>
4348	CRRRC State (Lynch, K, CRRRC State)	<p>Landfill Disposal - ADC that counts as disposal should follow AB 1594. “Green material” has the same meaning as “processed green material.” The term does not include materials left over from the composting process, materials left over after the material recovery process (commonly referred to as “fines”), or processed construction and demolition waste materials.</p>	<p>A change to the regulatory text is not necessary. The comment is not relevant for the following reason(s): As stated in the Initial Statement of Reasons, Section 18983.1 Landfill Disposal and Recovery, 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.”</p> <p>Regarding the commenters note on “Green Material”. For the purposes of ADC in these regulations, “green material” is defined in Section 20690 of Title 27 of the California Code of Regulations.</p>
4349	CRRRC State (Lynch, K, CRRRC State)	<p>Carts/Containers - Gray containers/carts should be allowed as a color option with a definition</p>	<p>The definition of gray container in Section 18982(28) already specifies either gray or black. The term “black container” is not used in the regulation.</p>
4350	CRRRC State (Lynch, K, CRRRC State)	<p>Carts/Containers - How will split carts/containers distinguish paper fraction if both lids are to be blue?</p>	<p>CalRecycle revised Section 18984.7(a) in response to this comment to clarify that jurisdictions have to provide containers for the collection service that the jurisdiction implements for organic waste generators, not the indoor bins of businesses. Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. Additionally, if the color is an issue in this circumstance, the business can use labels instead. CalRecycle will clarify in the FSOR that Section 18984.9(b), which allows a commercial business to provide containers that comply with either the color or the labeling requirements, applies to Section 18986.1 and Section 18986.2.</p>
4351	CRRRC State (Lynch, K, CRRRC State)	<p>Carts/Containers - Commercial containers should be distinguished from residential carts in regulation language. May require different labelling and coloring requirements (e.g. do commercial containers require colored lids when the majority are currently black?) and regulatory timelines.</p>	<p>The regulations apply to both residential and commercial containers. CalRecycle has provided flexibility regarding containers regardless of commercial or residential. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement. The regulations allow labels to be applied to existing bins or lids until the containers are replaced either at the end of their useful life or by 2036. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life or by 2036.</p>

Comment Number	Received From	Question/Comment	Response(s)
4352	CRRC State (Lynch, K, CRRC State)	Carts/Containers - Industry believes yellow carts stain easily and have less UV protection and may be a poor option for food waste collection.	<p>CalRecycle responded to stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic.</p> <p>The jurisdiction would be able to continue to use the brown containers for manure until they reach the end of their useful life or until 2036, whichever comes first.</p>
4353	CRRC State (Lynch, K, CRRC State)	Carts/Containers - Concern that there is not enough cart manufacturing supply to meet the demand of these regulations as currently drafted.	<p>The comment is speculative, however CalRecycle extended the container color compliance date out until 2036 in response to this and other comments. Further a jurisdiction could be place on a corrective action plan if extenuating circumstances exist.</p>
4354	CRRC State (Lynch, K, CRRC State)	Carts/Containers - Unused carts will need to be landfilled and create a large waste stream	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container.</p>
4355	CRRC State (Lynch, K, CRRC State)	Carts/Containers - There exist building code restrictions on design/color that may make color requirements difficult to implement at the commercial level	<p>State law would preempt local regulation under these circumstances. Article 11, Section 7 of the California Constitution provides that “a county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” To the extent that local ordinances conflict with state requirements, they would be preempted. See eg. City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc. (2013) 156 Cal.Rptr.3d 409, 56 Cal.4th 729, 300 P.3d 494. Building codes and HOAs cannot be in conflict with local, state, or federal law. Stakeholders raised concerns raised that the regulations may be in conflict with local building codes and possible restrictions on design/color and other aesthetic requirements, for example in resort communities and jurisdictions with unique climates that require special considerations. However, if a HOA’s CC&Rs require use of a particular container color that is not in compliance with these requirements, then the CC&Rs would be in conflict with state law and any local ordinances adopted by jurisdictions pursuant to these regulations. The same would apply to a building code established by a jurisdiction.</p>
4356	CRRC State (Lynch, K, CRRC State)	Carts/Containers - May consider biodegradable bags or separate plastic bags for collection of organics at the commercial level that is not collected in a cart or container.	<p>if the commenter is suggesting that bags be used for food waste without being placed in a cart, the regulations do not provide that as an option. Greenwaste may be uncontainerized. The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility’s normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
4357	CRRRC State (Lynch, K, CRRRC State)	Carts/Containers - Providing containers for collection of organic waste and recyclables in all areas where disposal containers are provided for customers is not feasible in all spaces, such as restrooms.	Section 18984.9(b)(1) requires placement of containers in all areas except restrooms but does not prohibit a jurisdiction from also placing in containers in restrooms. Section 18990.1(a) already indicates that a jurisdiction can implement more stringent requirements. Therefore, if a jurisdiction's programs support composting certain types of materials discarded in restrooms, the jurisdiction is free to add these to its program.
4358	CRRRC State (Lynch, K, CRRRC State)	Labelling - Labelling date requirements differ from color requirements. Some recommend replacing labels on existing carts/containers by January 1, 2032 or whenever the container is replaced by a new container.	Comment noted. A Specific requirement is not necessary, nothing in the regulations prevents this from being done.
4359	CRRRC State (Lynch, K, CRRRC State)	Labeling - Regulations are unclear whether labels are intended to show all accepted/prohibited materials vs. primary accepted/prohibited materials. Showing all is impossible in written or graphic form. Alternate languages could be provided to consumers in print or online form.	For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.
4360	CRRRC State (Lynch, K, CRRRC State)	Procurement - Add stormwater treatment and watershed improvement as option for procurement regarding compostable material (e.g. compost filter socks, compost blankets, etc.)	CalRecycle disagrees with this proposed revision because nothing in the draft regulatory text prohibits the use of the compost products listed in the comment (compost filter socks, compost blankets) as long as the compost in those products meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target.
4361	CRRRC State (Lynch, K, CRRRC State)	Procurement - Need to build out a definition of compost uses and compost and product uses for procurement and incorporate throughout the regulations with the definition of pollution in Articles 2, 8, 9, 12 and 13	CalRecycle disagrees with this proposed revision because the draft procurement requirements are not intended to mandate compost end uses. A jurisdiction has the flexibility to use compost for its local needs, which could be as varied as erosion control, school and community gardens, or a compost giveaway. It is overly burdensome and not feasible to list all the possible compost uses in the regulations. However, CalRecycle does plan to provide tools and resources for jurisdictions once the regulations are finalized, which could include examples of compost use. Regarding the "definition of pollution" and reference to other articles, the comment's intent is unclear, however

Comment Number	Received From	Question/Comment	Response(s)
			the procurement requirements are designed to complement the requirements in other sections of the draft regulation.
4362	CRRRC State (Lynch, K, CRRRC State)	Procurement - Should include language around "fair market value" on an annual basis	CalRecycle declines to include language pertaining to "fair market value" because there is no justification provided in the comment, or otherwise, for doing so.
4363	CRRRC State (Lynch, K, CRRRC State)	Procurement - Eliminate complicated tracking and formulas	Quantifiable and measurable methods to verify procurement of recovered organic waste product and recycled content paper procurement are necessary to ensure that CalRecycle can verify compliance with the minimum requirements of SB 1383. Compliance with SB 1383 is necessary to achieve the ambitious organic waste diversion goals required by SB 1383. Given that no alternatives for quantifying the procurement requirements are provided in the comment, CalRecycle declines to revise the regulatory language in response.
4364	CRRRC State (Lynch, K, CRRRC State)	Procurement - Need to determine an equitable procurement target for all jurisdictions. Current formula is not equitable.	The intent of the procurement requirements is to provide a fair and transparent method to quantify and measure procurement of recovered organic waste products. For example, the procurement target is based on publicly available population data provided by the Department of Finance (DOF) and the amount of statewide organics diversion necessary to meet the 2025 target. Given that no alternatives are provided in the comment, CalRecycle declines to revise the regulatory language in response.
4365	CRRRC State (Lynch, K, CRRRC State)	Procurement - Should include all uses of RNG, including electricity production	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends</p>

Comment Number	Received From	Question/Comment	Response(s)
			electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.
4366	CRRRC State (Lynch, K, CRRRC State)	Procurement - State agencies should also be required to procure!	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
4367	CRRRC State (Lynch, K, CRRRC State)	High Diversion Organic Waste Processing Facility - Should be able to combine the diversion tonnages of their SSO and recyclables to achieve the desired recovery rates, in a three-container or two-container collection system.	A change to the regulatory text is not necessary. The source separated organic waste is kept separate from the mixed waste stream to ensure that the maximum amount of organic waste is kept clean by reducing cross contamination so it can be recovered and not disposed. This is necessary to ensure that the organic waste recovery target established in statute can be met. In addition, combining the source separated organic waste with the mixed organic waste stream prior to sampling would skew the results to determine the facility’s efficiency to recovery organic waste from the mixed organic waste stream for recycling. Furthermore, it also provides consumers the confidence that material they consciously separated for recovery is actually recovered.
4368	CRRRC State (Lynch, K, CRRRC State)	High Diversion Organic Waste Processing Facility - Consider a secondary processing phase (e.g. compost) to meet the desired recovery rates	CalRecycle staff has noted the comment. Secondary facilities (Compost/In-vessel digestion) are a part of meeting the recovery efficiency. Material processed at a transfer/processing facility must meet the incompatible material limits before it is sent to a compost or in vessel digestion facility in order for the material to be counted as recovered for the purposes of measure recovery efficiency. Compost/in-vessel digestion facilities are not required to meet a recovery rate, but instead, have a limitation on how much organic waste can be disposed. Alternatively a transfer/processor sending material to a compost/ In-vessel digestion facility that demonstrates

Comment Number	Received From	Question/Comment	Response(s)
			less than 20 percent of organic waste in material it sends to disposal on and after 2022 and 10 percent on and after 2024 does not need to meet the incompatible materials limit.
4369	CRRRC State (Lynch, K, CRRRC State)	High Diversion Organic Waste Processing Facility - More clarity is needed on what material is considered a mixed waste organic collection stream. For example, debris boxes and self-hauled public contractor material should not fall under this category. Many jurisdictions have 3-cart system but may have separate line to manage debris boxes and material brought from self-haulers (like public contractors) and will pull out organics from this stream. This material should not be considered mixed waste organic collection stream.	CalRecycle staff has noted the comment. To clarify, construction and demolition debris that is separated at the point of generation, kept separate, and sent to permitted construction and demolition debris transfer/processing facility or operation that meets the California Green Building Code would not be required to meet the recovery rate of 50 percent by 2020 and 75% by 2025. However, construction and demolition debris that is comingled with other waste streams would be handled as a mixed waste organic collection stream.
4370	CRRRC State (Lynch, K, CRRRC State)	Reporting/Recordkeeping -Organic waste that is used as animal feed should be reporting under SB 1383	Comment noted. CalRecycle has determined that use as animal feed counts as a reduction in landfill disposal but finds that reporting for use as animal feed is unnecessary.
4371	CRRRC State (Lynch, K, CRRRC State)	Reporting/Recordkeeping - Will the recordkeeping requirement by container contamination minimization be summarized in the jurisdictions annual report (Article 3 Section 30.6)?	A change to the regulatory text is not necessary. Please see Section 18994.2(c).
4372	CRRRC State (Lynch, K, CRRRC State)	Waivers - Physical space waivers o Where the customer may only have space for two carts, which container is placed (organic or recyclable)? The regulations don't currently address this issue. o Concern expressed that this may be an easy way for generators who should have a collection program to get out their requirements	Discretion is left to the jurisdiction as to whether to waive some or all of the organic waste collection requirements under a physical space waiver.
4373	CRRRC State (Lynch, K, CRRRC State)	Waivers - Concern expressed that the de minimus waivers could impact route efficiency and collection opportunities.	Comment noted. The comment is not suggesting a particular language change or commenting on the rulemaking procedure used.
4374	CRRRC State (Lynch, K, CRRRC State)	Waivers - As expressed in a previous CRRRC letter, there will always be potential fecal matter in the refuse bin and therefore a less frequent collection waiver than required by Section 17331 of Title 14 of the California Code of Regulations could pose serious health and safety risks.	Nothing in the regulations exempts jurisdictions from existing public health and safety requirements regarding the requirement to collect waste in a manner that does not create threats to public health and safety. The language regarding collection waivers specifies that the jurisdiction must demonstrate to the enforcement agency that a collection frequency waiver will not impact the receiving solid waste facilities ability to comply with solid waste facility permitting standards related to protecting public health and safety from the handling of solid waste. CalRecycle cannot verify that a green or gray container would not include putrescible waste, it is likely that at least one container, which ever contains food will be putrescible. Which is why approval for 14 day collection is subject to review by the EA.
4375	CRRRC State (Lynch, K, CRRRC State)	Waivers - How are low income communities factored into waivers or exemptions granted by the department?	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount

Comment Number	Received From	Question/Comment	Response(s)
			<p>of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede</p>

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			<p>achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4376	CRRRC State (Lynch, K, CRRRC State)	Waivers - How are resort communities or those areas with varied seasonal populations factored into waivers or exemptions granted by the department?	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended</p>

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4377	CRRRC State (Lynch, K, CRRRC State)	Waivers - Population criteria may not be helpful in some cases such as small communities that house a state facility, such as a prison, that are technically exempted from collection programs.	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p>

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			<p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4378	CRRRC State (Lynch, K, CRRRC State)	Waivers - Need an option to renew an “emergency processing facility temporary equipment or operational failure waiver”.	<p>CalRecycle does not concur with changing the language to ‘shall’ as there may be instances where a jurisdiction wants the material to be taken to another facility for recycling rather than disposing of the material. It is unclear why CalRecycle would require the disposal of organic waste. If a processing issue extends beyond 90-days a jurisdiction could seek additional time under a corrective action plan for extenuating circumstances.</p> <p>CalRecycle does not concur with the addition of a new waiver because planned and routine maintenance should already be accounted for and the material should not be disposed.</p>
4379	CRRRC State (Lynch, K, CRRRC State)	Collection - Need to have the option to use plastic bags for separating materials within organic or recyclable bin. One example is food waste separated from greenwaste, or textiles separated from recyclables.	<p>Bags may be used in the green container under certain circumstances. Bags may be used in the blue or gray container without any additional requirements unlike for the green container. The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility’s normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
4380	CRRRC State (Lynch, K, CRRRC State)	Route Review (Container Minimization) - Collection programs should have the flexibility to design their route reviews according to their individual programmatic needs	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4381	CRRRC State (Lynch, K, CRRRC State)	Route Review (Container Minimization) - As currently drafted, this section is not practicable and economically unfeasible, especially in terms of enforcement expectations.	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of</p>

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4382	CRRRC State (Lynch, K, CRRRC State)	Route Review (Container Minimization) - Feel strongly that this section should be made more flexible overall and that jurisdictions can submit a route review plan as part of their program planning. No need for this prescriptive approach!	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p>

Comment Number	Received From	Question/Comment	Response(s)
			In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.
4383	CRRRC State (Lynch, K, CRRRC State)	Route Review (Container Minimization) - If no flexibility language is added, language should read "significant prohibited contamination" in lieu of "prohibited container contaminants".	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
4384	CRRRC State (Lynch, K, CRRRC State)	Enforcement - General concerns that this is the only way the department appears to receive revenue for program implementation.	Comment noted. This comment is not recommending a change to the regulatory text.
4385	CRRRC State (Lynch, K, CRRRC State)	Enforcement - Need clarification that if a jurisdiction is under a "Corrective Action Plan" they may not be implementing all the required programs and therefore would not need to enforce on other reporting entities or generators.	A change to the regulatory text is not necessary. Section 18995.4 (b)(2) allows for an extension if an entity's compliance is not possible due to limitations in infrastructure and the jurisdiction is on a Corrective Action Plan.
4386	CRRRC State (Lynch, K, CRRRC State)	Enforcement - Concern that 90 days is insufficient for a jurisdiction to correct ordinance program deficiencies	CalRecycle has revised section 18996.1(e) in response to this comment. The change increases the relevant timeline to 180 days.
4387	CRRRC State (Lynch, K, CRRRC State)	Enforcement - Does department access for inspection include haulers, MRFs, compost facilities, etc.? May need a reasonable notice component, like 72 hours.	A change to the regulatory text is not necessary. Section 18996.4 states that an authorized Department employee or agent may enter the premises of any entity subject to this chapter. Haulers, material recovery facilities, compost facilities and other solid waste facilities are regulated under other chapters of Title 14. Those provisions are not subject to this rulemaking process.
4388	CRRRC State (Lynch, K, CRRRC State)	Enforcement - Department enforcement action for state agencies and local education agencies is insufficient as the only outcome is being listed on the Organic Waste Recovery Noncompliance Inventory.	A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement

Comment Number	Received From	Question/Comment	Response(s)
			requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.
4389	CRRRC State (Lynch, K, CRRRC State)	Organic Waste Recovery Efficiency - A source separated paper collection program should NOT be required to do contamination testing. If required, this should only be greenwaste/foodwaste, etc.	Comment noted. A receiving facility (organic waste recovery activity) are not required to meet a recovery rate, but instead, have a limitation on how much organic waste can be disposed. A compost/ In-vessel digestion facility should have no more than 20 percent of organic waste sent to disposal on and after 2022 and 20 percent on and after 2024. A paper recycling center (organic recycling centers) are required to meet the requirements of a recycling center as set forth in Section 17402.5 (d).
4390	CRRRC State (Lynch, K, CRRRC State)	Organic Waste Recovery Efficiency - A daily testing of contamination is overly burdensome and will be a huge cost to operating entities, as well as time consuming, a space constraint issue and potentially dangerous for operations. At a maximum a facility could test for one week during the quarter to determine the average quarterly sum of outgoing organic waste sent for disposal and the residuals left over in the various organic waste types. Periodic sampling, not daily sampling, is necessary.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The operator will now be taking composite samples for 10 consecutive days per reporting period. Using 10 consecutive days instead of daily 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 get the needed data. Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.
4391	CRRRC State (Lynch, K, CRRRC State)	Organic Waste Recovery Efficiency - It is particularly confusing and unclear how a composting facility will be expected to test a sample from each organic waste type. There is no explanation of what constitutes end-use, further recovery or further processing. In addition to the need for periodic testing, composting and AD facilities should have a process specific sampling methodology that works for their operations. This is assuming that MRFs, compost facilities and AD facilities all process organics similarly, which is simply not the case.	A change to the regulatory text is not necessary. An activity that further processes recovered organic waste pursuant to Section 18983.1 (b) would constitute an end-user processor (composting/in-vessel digestion, or recycling center are some examples). A composting facility only needs to sample the residual waste, not each organic waste type, to determine the amount of organic waste sent for disposal. Section 17867(a)(16) requires operators to take a sample that is representative of a typical operating day, and a random, composite sample taken from various times during the operating day or locations within the pile after processing. Composting facilities are not required to meet a recovery rate, but instead, have a limitation on how much organic waste can be disposed. In addition, operators can propose an alternative sampling protocol with approval by the EA and concurrence from CalRecycle.
4392	CRRRC State (Lynch, K, CRRRC State)	Organic Waste Recovery Efficiency - Clarification is needed for preprocessing of organic material prior to going to AD. Again language is very unclear where in the process contamination will be checked. Need to separate out MRF from compost to AD facility expectations.	A change to the regulatory text is not necessary. An activity that further processes recovered organic waste pursuant to Section 18983.1 (b) would constitute an end-user processor (composting/in-vessel digestion, or recycling center are some examples). A composting facility only needs to sample the residual waste, not each organic waste type, to determine the amount of organic waste sent to disposal. Section 17867(a)(16) requires operators to take a sample that is representative of a typical operating day, and a random, composite sample taken from various

Comment Number	Received From	Question/Comment	Response(s)
			times during the operating day or locations within the pile after processing. Composting facilities are not required to meet a recovery rate, but instead, have a limitation on how much organic waste can be disposed. In addition, operators can propose an alternative sampling protocol with approval by the EA and concurrence from CalRecycle.
4393	CRRRC State (Lynch, K, CRRRC State)	Organic Waste Recovery Efficiency - Also, very unclear how operators are expected to remove organics that are stuck to plastics or how to manage wet vs. dry processes. Wet processes will obviously weigh more and therefore have different outcomes in terms of "contamination" that is determined by weight.	CalRecycle staff has noted the comment. The purpose of this regulation is not to describe the means and methods for which to effectively remove all contamination in a source-separated or mixed waste collection system, but to measure how efficient the facility is at recovering organic waste from these waste streams. The measurement protocol requires operators to take a sample representative of a typical operating day, and a random, composite sample taken from various times during the operating day or locations within the pile after processing. This protocol will be leveling the daily variations and provide a more representative weight.
4394	CRRRC State (Lynch, K, CRRRC State)	Loadchecking Contamination - No need to include this section as part of the regulatory package as already part of Title 14 loadchecking program protocol. • Facilities are already doing their part to meet Title 14 and 27 requirements and no need for prescriptive approach in the regulations.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
2022	Cummings, Dan; Sevana BioEnergy	Sevana Bioenergy is a developer of Anaerobic Digestion (AD) facilities that produce Renewable Natural Gas. We applaud the State's work in this area. In the general comment section of today's public hearing on regulations for SB 1383, we would encourage CalRecycle to ensure that the new regulations are technology neutral to ensure that new technologies that are coming in the future are encouraged and not blocked from qualified sources of methane reduction.	CalRecycle agrees that determinations of new technologies and processes should be technology neutral but clarifies that they cannot be greenhouse gas emissions reduction neutral. The purpose of section 18983.2 is to allow for new organic waste reduction technologies and processes that reduce greenhouse gases at least as much as composting to be approved for use in meeting regulatory requirements. 2 Gravuer, Kelly, July 22, 2016 University of California, Davis, https://www.cdfa.ca.gov/oefi/healthysoils/docs/CompostApplicationRate_WhitePaper.pdf . 3 CalRecycle, 2010, Third Assessment of California's Compost- and Mulch-Producing Infrastructure--Management Practices and Market Conditions, https://www2.calrecycle.ca.gov/Publications/Details/1358 . 4 California Air Resources Board, May 2019, https://www.arb.ca.gov/cc/waste/cerffinal.pdf .
2023	Cummings, Dan; Sevana BioEnergy	Next, we are utilizing new AD technologies which produce RNG. The residual digestate has very little, if any, methane left over after full processing. Thus, the revised compost emission reduction factors in the proposed regulations do not match the new technologies being introduced. We would encourage CalRecycle to revisit this issue and have compost emission reduction factor on a scale that encourages technologies that have greater methane reduction.	The commenter asserts that a higher emissions reductions requirement than 0.30 MTCO ₂ e/short ton organic waste be used to determine what technologies and processes are allowed to be deemed as reducing organic waste disposal in landfills. CalRecycle does not agree that a higher number should be used because this requirement and others will ensure that landfill disposal of organics is reduced and, assuming the State meets its overall diversion targets, allows the State to meet the 4 MMTCO ₂ e reduction in greenhouse gas emissions outlined in the State's Short-Lived

Comment Number	Received From	Question/Comment	Response(s)
			Climate Pollutant Reduction Strategy. Setting the emissions reductions requirement higher would limit technologies with no reasonable justification.
2024	Cummings, Dan; Sevana BioEnergy	Further, we echo the other comments that paper not be included in the organic waste stream.	Comment noted. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
2025	Cummings, Dan; Sevana BioEnergy	Finally, in Article 12/Procurement, we would echo other comments that the procurement standards be broad enough to encourage RNG for vehicles, buildings, CHP, electricity, and even for hydrogen that could be utilized in refineries to produce lower carbon fuels. A broad use of the RNG from these regulations will encourage greater participation and create a more robust forward-looking market.	<p>"The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards."</p>
3008	Curtis, M., Concerned Parent	I just want to make sure that schools are equipped with the knowledge and connections to divert their waste. I am a parent who has been working on this at my daughter's school for over 3 years and have noticed many obstacles.	A change to the regulatory text was not necessary because food service providers are already included in the regulations as tier one commercial edible food generators. Beginning January 1, 2022, food service providers will be required to comply with the commercial edible food

Comment Number	Received From	Question/Comment	Response(s)
		<p>As you are aware, too much food is wasted at schools and this is because of so many reasons, many of which provide no accountability. The FSP is trying to make money and therefore, are not concerned with what is eaten, only what is ordered. Especially for schools that have low income, and thus provide free meals, the kids just take the food and throw it away, perhaps eating one item, and oien no items are even consumed.</p> <p>Our FSP is Revolution Foods (although all FSPs are a business, therefore profit is their goal). Revolution Foods tells the schools not to donate as it illegal, but it is not: SB577 and the Good Samaritan Act! They tell the schools not to save foods for the next meals also, but to throw it away and reorder. Our lunch lady wants to save the food and offer options, but is too scared of losing her job to follow her instincts. Revolution Foods sends foods that the students do not like in too much packaging. For example, the students never eat the baby carrots, yet they tell them to throw them away and just order new ones, individually wrapped in plastic, the next day so they can profit, despite the date on the packages being about 2 weeks until expiration. They also send 3 pieces of celery in a plastic container, wrapped in plastic film. They do not allow the mixing of fruits so kids can choose, despite having a different fruit option for breakfast and lunch. They must just serve each one at the meal, when providing an option would lead to more pleasing options for the students. If students could choose, they are more likely to consume it: more nutrition and less waste. They are instructed to serve just one option and throw the rest away. There is a disconnect that needs to be filled. The FSP needs accountability in this!</p> <p>My daughter has friends who have told me their school and aier-school program tells them to take the food and just throw it away so they can get their "numbers" for reimbursement. This needs to be illegal. In addition, telling kids to lie and throw away food is wrong on so many levels. School staff and parents need to be trained how to recycle, compost, donate, share, etc, as well.</p> <p>It will be difficult, but not impossible. The haulers provide initial education, as per their contract. They need to establish a contact person who is passionate about the environment, student health, or just keeping compliant with the law at every school site. The school needs to either have campus aides and/or a green student group be in charge. They can also have the students each perform a number of hours (15-20 hours each should fill the time slots, depending win the school size) of "community service" to help at the station in order to graduate to the next grade.</p> <p>The city may need a task force to check on the schools to make sure they are set up and doing correct item placement in the bins, donating correctly, paperwork in order, and any other help they mati need to transition to the new way. I recommend focusing first on schools that provide free meals to the students because parents don't even check the menu and kids just take it to see what is it and throw it away. When parents are paying, they check the menu and send lunch if they don't like the choice for that day.</p>	<p>generator requirements of SB 1383. In addition, the regulations require jurisdictions to provide commercial edible food generators (including food service providers and local education agencies) with education to assist them with SB 1383 compliance. The exact edible food recovery education and outreach requirements can be found in Section 18985.2 of the proposed regulations. CalRecycle would also like to clarify that a local education agency (which includes K-12 schools) with an on-site food facility is a tier two commercial edible food generator. As a tier two commercial edible food generator local education agencies will responsible for compliance with the commercial edible food generator requirements beginning January 1, 2024.</p> <p>To clarify, if a food service provider operates at a local education agency, then beginning January 1, 2022 the food service provider is responsible for compliance. The local education agency is not responsible for compliance until January 1, 2024.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Once established, food rescue will become second nature to the students and staff, our goal! It should feel "wrong" to waste food aier practicing, as opposed to being instructed to do so as it stands now!</p> <p>Schools need lots of info about how they can indeed donate, and doing so will reduce their hauling fees as less is sent to the dump or compost.</p> <p>They all need to have child friendly posters and literature explaining what can go in each bin and how clean it needs to be and what can be saved, in relevance to school food and the containers they come in.</p> <p>With a lot of training and prac*ce, when they perfect it, their hauling bills should not increase if they share, donate, transfer food from programs, and recycle. The haulers need to inform them of this and get them to eliminate at least one of their big trash containers from their site and bill. The compost bin should replace a trash bin and recycling takes care of the rest of the bulk (done correctly, of course).</p> <p>Please reach out to me as an extremely involved parent who has years of experience gemng a school that servers free lunch from throwing everything in the trash to almost compliant with the new regulations.</p>	
1002	Curtis, Micki	<p>I hope there will be a task force to train the schools a few times and follow up. I hope they inform schools about the new regs as they still believe food can't be donated, shared, transferred from one meal to the next, etc. They are so scared of liabilities that no longer exist.</p> <p>I hope they help fill out all necessary paperwork to get them on track and make sure there is a contact point at the school who is responsible.</p> <p>I hope they train not only the students, but the staff and parents as well.</p>	<p>Local jurisdictions should still provide education to non-local entities and local education agencies within their geographic boundaries, as they already are doing under AB 1826 and AB 341. It is Important for these entities to know what collection options are available locally. CalRecycle will also provide assistance to local education agencies in implementing programs. The regulations already provide that compliance with this provision by these entities would be enforced by CalRecycle. CalRecycle will be providing guidance and training to regulated entities including schools.</p>
1003	Curtis, Micki	<p>I hope there are videos, fliers, games, on line resources, etc. in both English and Spanish and more languages too. I hope these are all consistent with he city because as of now, they are not.</p>	<p>Once the regulations are adopted, CalRecycle will create other educational samples resources.</p>
1004	Curtis, Micki	<p>Our hauler says they are not set up for composting yet. I thought under the franchise, they were supposed to be already.</p>	<p>Comment noted. The comment is not directed at the regulatory text.</p>
1005	Curtis, Micki	<p>I have seen a lot about grocery stores, but little info on schools regarding this issue. There needs to be more press to gear them up as it takes time to with mentalities. Schools are also important to target as the kids are our future and we are currently training them to waste by forcing them to take the food and the components so the schools can get their "numbers" for reimbursement and the FSP, their money.</p>	<p>CalRecycle will be providing guidance and training to regulated entities including schools.</p>
1174	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	<p>Section 18083(c) - How is the term "oversee" defined?</p>	<p>CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.</p>

Comment Number	Received From	Question/Comment	Response(s)
1175	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Section 18083(c) - What standardized method of measurement is expected of the LEA to oversee?	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1176	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Section 18083(c) - What training will CalRecycle provide to the LEA to ensure method of measurement meets the State's expectation?	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1177	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Section 18083(c) - Does reviewing of measurement reports during the inspection meet the "oversee" definition?	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1178	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Section 18083(c) - Will the LEA receive an unfavorable evaluation from CalRecycle as a result of the solid waste operator's failure to meet the mentioned 14 CCR Sections regarding to measurements? How will the LEA's performance standard be impacted?	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1179	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Current transfer/processing facility in San Francisco accepts source separated organic waste collection stream "green bin" and does not process the organic waste on site. The organic waste is hauled to another facility for further separation and processing. Would this transfer/processing facility need to comply with Section 17409.5.4(a)-(d)?	Comment noted. If the facility meets the definition of a consolidation site then it would not be subject to requirements of Sections 17409.5.1 through 17409.5.8, otherwise the facility would be required to comply with the measurement protocols for source separated organic waste handling.
1180	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	If the above mentioned site is required to comply with Section 17408.5.4(a)-(d), the transfer/processing facility in this case would have to implement a brand new operation of sorting and separating the different types of organic waste. Would this requirement at minimum, result in a RFI amendment to the TPR to reflect new operation?	Comment noted. Depending on the type of operational change and the type of tiered permit, a specific permit action might be warranted (RFI Amendment, Permit Revision, etc.). If the permit allows for this type of activity, an RFI Amendment may only be required. If the permit prohibits this type of activity, then some type of permit action may be required. Operators should consult with the Local Enforcement Agency and Department's Permitting and Assistance Branch's Point of Contact to determine what type of permit action is required for this of change.

Comment Number	Received From	Question/Comment	Response(s)
1181	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Section 17867(a)(16)- If a chipping and grinding operation is generating minimal residual and using the curb side waste collection stream (gray container) as a method to remove the residual, does this site have to comply with Section 17867(a)(16) to determine the monthly percentage of organics waste contained in residual removed after processing?	A change to the regulatory text is not necessary. A chipping and grinding operation is only allowed to accept green material. Therefore, these operations are prohibited from receiving waste from gray containers.
1182	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Does the chipping and grinding operation described in the above case scenario have to meet Section 17869(e)(6) Daily Outgoing Weights of Residual Sent to Disposal requirement?	A change to the regulatory text is not necessary. A chipping and grinding operation is only allowed to accept green material. Therefore, these operations are prohibited from receiving waste from gray containers.
1183	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	If so, what documentation would satisfy this requirement?	A change to the regulatory text is not necessary. A chipping and grinding operation is only allowed to accept green material. Therefore, these operations are prohibited from receiving waste from gray containers.
1184	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	Article 15. Enforcement Oversight by the Department - Question: In San Francisco, multiple departments within the City and County may share the responsibility of enforcing different sections of the proposed regulation. Who at the jurisdiction will the Department notify to address jurisdiction compliance?	CalRecycle has revised section 18981.2 in response to this comment. The change allows for the jurisdiction to include the point of contact for the designee.
1185	Cushing, Stephanie, San Francisco Department of Public Health, Environmental Health	General Question on Funding -Question - Will there be funding available from CalRecycle for program implementation that is currently unfunded or can the regulation add a language to provide a mechanism for the local jurisdictions to recover costs for implementing the new regulation?	Refer to Public Resources Code Section 42652.5(b) which states that a local jurisdiction may charge and collect fees to recover the costs associated with complying with these regulations Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not

Comment Number	Received From	Question/Comment	Response(s)
			provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
14	Darling, G, Darling H2O Consulting	As a previous General Manager of a wastewater treatment plant in Contra Costa County (Delta Diablo), I strongly urge CalRecycle not to limit eligible diversion technologies to compost and anaerobic digestion, which excludes the majority of the organic landfill waste stream and misses the opportunity to produce renewable energy and take many high energy wastewater treatment plants “off the grid” and reduce volumes by 90% resulting in far fewer trucks on the road and significantly lower GHG footprints.	CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO2e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.
15	Darling, G, Darling H2O Consulting	In several places, the proposed regulations limit eligible conversion technologies to compost and anaerobic digestion, which excludes the conversion of wood and other cellulosic waste that comprises the majority of the organic waste going to landfills. There is no legal or scientific justification for this, and very good policy reasons to broaden the definitions of eligible conversion technologies.	CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO2e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.
16	Darling, G, Darling H2O Consulting	A. Article 1 – Definitions (62) “Renewable transportation fuel” means fuel derived from renewable gas from organic waste that has been diverted from a landfill and processed at either (a) an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, or (b) converted pursuant to Public Resources Code section 40106.	Note that “renewable transportation fuel” has been revised to “renewable gas” in the draft regulatory text. Regarding expanding “renewable gas” to include gas from biomass conversion, CalRecycle has revised the text to allow electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. However, for thermal and noncombustion thermal conversion technology, CalRecycle disagrees with this approach. These technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.
17	Darling, G, Darling H2O Consulting	B. Article 2 – Section 18983.1	CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion

Comment Number	Received From	Question/Comment	Response(s)
		<p>(6) Land application, as defined in Section 17852(a)(24.5) of this division subject to the following conditions: (A) Green waste or green material shall meet the definition of Section 17852(a)(21) and shall have been processed at a solid waste facility, as defined by Section 40194 of the Public Resources Code.</p> <p>(B) Biosolids shall:</p> <ol style="list-style-type: none"> 1. Have undergone anaerobic digestion or composting, as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, or biomass conversion pursuant to Public Resources Code section 40106, and, 2. Meet the requirements in Section 17852(a)(24.5)(B)(6) of this division for beneficial reuse of biosolids. <p>(C) Digestate shall:</p> <ol style="list-style-type: none"> 1. Have been anaerobically digested at an in-vessel digestion operation or facility, as described in Sections 17896.8 through 17896.13, or converted to biochar through an eligible conversion process pursuant to Public Resources Code section 40106; and, 2. Meet the land application requirements described in Section 17852(a)(24.5)(A). 3. Have obtained applicable approvals from the State and/or Regional Water Quality Control Board requirements. 	<p>or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO_{2e} per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
18	Darling, G, Darling H2O Consulting	I urge CalRecycle, therefore, to encourage projects that produce both energy and compost as they will provide far greater SLCP reductions than compost alone. The science is clear that converting diverted organic waste to bioenergy and compost provides the greatest greenhouse gas reductions of any end use.	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO_{2e} per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
19	Darling, G, Darling H2O Consulting	While each project will differ, in most cases, CalRecycle should encourage projects that produce bioenergy and then compost the remainder in the form of biochar, in order to maximize SLCP reductions from diverted organic waste, which is the best way to meet the requirements of Health and Safety Code section 39730.6.	Comment noted. The commenter is providing an opinion about inclusion of biochar to maximize methane reduction. CalRecycle's regulations are designed for diversion of organic waste from landfills as opposed to quantifiable methane reduction. The regulations include procurement requirements that encourage production of renewable gas from organic waste.
20	Darling, G, Darling H2O Consulting	I support the comments of other parties that recommend the proposed regulations be broadened to include state procurement and other procurement in addition to local governments. This will help to achieve the requirements of SB 1383 in the most expeditious and cost-effective manner.	Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot

Comment Number	Received From	Question/Comment	Response(s)
			<p>supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
3179	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The Task Force recognizes the significant responsibility CalRecycle has under State law to achieve the Statewide 75 percent “recycling” goal by 2020, reduce organic waste disposal by 75 percent by 2025, support the Air Resources Board in reducing climate pollutants, and the limited time granted by the State Legislature to achieve these goals. However, while the Task Force strongly supports efforts to reduce climate pollutants, the Task Force is very concerned about the approach that CalRecycle has selected, which places a tremendous burden and responsibility on counties and cities (more than any other stakeholder group, including, but not limited to, state agencies, public and private colleges and universities, school districts, local education agencies and non-local entities as defined in Article 1, Section 18982 (a) (40) and (42), respectively, etc.), while relying on extremely prescriptive requirements, excessive “bean counting” and reporting, and requiring counties and cities to impose steep penalties on residents and businesses. State law, Section 40001(a) of the Public Resources Code (PRC), declares that “the responsibility for solid waste management is a shared responsibility between the	Comment noted. Commenter is expressing an opinion on the overall regulatory model that CalRecycle is using as well as potential difficulties in assessing fees to offset regulatory costs. CalRecycle acknowledges that compliance with the regulations may pose challenges for local jurisdictions due to the ambitious organic waste diversion mandates set by the Legislature on a very short timeline. CalRecycle has determined that this regulatory model is necessary to achieve those mandates.

Comment Number	Received From	Question/Comment	Response(s)
		<p>state and local governments (emphasis added).” Furthermore, SB 1383 recognizes the shared responsibility “the waste sector, state government, and local governments” have in achieving the organic waste reduction goals for 2020 and 2025, and thus requires CalRecycle to analyze the progress made by the three sectors, in that order, including “commitment of state funding”, in achieving the said goals {PRC Section 42653. (a)} (emphasis added). However, under the proposed regulations, the responsibility weighs much more heavily on counties and cities, including programmatic and penalty requirements, than on state agencies, school districts, and special districts, local education agencies, and non-local entities (as an example, see provisions of Articles 14 and 15 of the proposed regulations). For example, SB 1383 notes that the California Constitution requires the state to “reimburse local agencies and school districts for certain costs mandated by the state (see SB 1383, preamble). SB 1383, Section 7 further states that “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act...” While both local agencies and school districts may have authority to levy service charges, fees, or assessments, the proposed regulations disproportionately place the responsibility on counties and cities, even though they may encounter as much difficulty in raising charges, fees, or assessments as school districts. State agencies similarly are held to a much lower standard than counties and cities, while not being subject to a measurable penalty. Therefore, the Task Force strongly recommends the proposed regulations be revised to provide for a more equitable distribution of the responsibility for achieving the disposal reduction goals among all sectors, including industry, state government, school districts, public and private colleges and universities, and other non-local entities and local education agencies, etc.</p>	
3180	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The proposed regulations impose requirements on counties and cities that exceed the authority granted to CalRecycle by State law or are contrary to it.</p> <p>a. SB 1383 does not provide CalRecycle with the authority to require local jurisdictions to impose civil (monetary) penalties on residential or commercial organic waste generators for non-compliance.</p> <p>The proposed regulations (Article 16, Section 18997.1) require jurisdictions to “adopt ordinance(s) or enforceable mechanisms to impose penalties that are equivalent or stricter than those amounts in Section 18997.2...” (emphasis added). In addition, Section 18997.2. Penalty Amounts, requires: “(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b).” (emphasis added).</p> <p>While SB 1383 grants CalRecycle the authority to “require local jurisdictions to impose requirements on generators or other relevant entities within their</p>	<p>Regarding Public Resources Code Section 40059, there are two phrases that must be taken into account in its application to SB 1383.</p> <p>First, Public Resources Code Section 40059 applies to aspects of solid waste handling “which are of local concern.” The organic waste diversion mandates in SB 1383 are of statewide application and statewide concern. As described in other responses to comments, CalRecycle was granted broad statutory authority by the Legislature to create rules designed to implement these statewide mandates and ensure the statutory organic waste diversion requirements are met. To the extent there are provisions in the rulemaking that touch on aspects of local solid waste handling, these are regarding matters of statewide concern that have been determined by CalRecycle to be necessary to achieve the goals of SB 1383.</p> <p>Second, Public Resources Code Section 40059 contains the introductory phrase, “Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern...” This phrase contemplates that other laws exist that may affect local solid waste handling and that the mere existence of those laws does not automatically preempt local governments from regulating the</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>jurisdiction,” this authority does not extend to the imposition of penalties (emphasis added). SB 1383 only provides that CalRecycle “may authorize local jurisdictions to impose penalties on generators for noncompliance” {see Section 42652.5. (a)(1) of the Public Resources Code (PRC)} (emphasis added).</p> <p>In requiring counties and cities to impose steep civil penalties (\$500 per day per violation) on residents and businesses for non-compliance with each requirement of the regulations, CalRecycle would exceed its authority under the law. Such authority is vested on local governmental agencies by PRC Section 40059, which states that, “each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.” (emphasis added).</p> <p>Therefore, the Task Force strongly recommends the proposed regulations be revised to delete any and all provisions that require counties and cities to impose civil (monetary) penalties on their residents or businesses. The language may be revised pursuant to PRC Section 42652.5 (a)(1) to authorize counties and cities to do so, as they deem appropriate (emphasis added).</p>	<p>enumerated subject areas. It was designed to make clear that the state was not preempting the entire field of solid waste handling and that local jurisdictions were still allowed to regulate in certain areas.</p> <p>As such, Public Resources Code 40059 is not a limitation on CalRecycle from regulating aspects of solid waste handling to the extent they are of statewide concern.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to ‘fill up the details’ of the statutory scheme.”</p> <p>Administrative Civil Penalty tables, including “Base Table 6,” were deleted from the proposed regulations</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second,</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
3181	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>b. SB 1383 does not preclude CalRecycle from considering county or city "good faith efforts" to comply with the regulations.</p> <p>CalRecycle's Statutory Background and Primary Regulatory Policies document states, in part, that "Legislative guidance directs CalRecycle not to...utilize the "Good Faith Effort" compliance model specified in PRC Section 41825." This is inaccurate and contrary to the language of SB 1383. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider "good faith effort" in determining a jurisdiction's progress in complying with the law. It states that CalRecycle "shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825..." (emphasis added).</p> <p>Since PRC Section 41825 establishes the process to determine whether a jurisdiction has made a "good faith effort" to comply with the law, it is clear that CalRecycle is required to consider "good faith effort" in making its determination of a jurisdiction's progress. Therefore, the proposed regulations need to be revised to provide for this provision.</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
3182	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>As proposed, the definition of "organic" is extremely broad and basically includes plastics. The inclusion of plastic does not fit into the concept of organic collection and processing. This definition should be narrowed to prevent confusion, be consistent with state law, and should not include textiles, carpets, fiber, biosolids, digestate, or sludges. Textiles, carpets, and any other new materials should not be considered "organic" material unless their greenhouse gas (GHG) potential is analyzed. See the "Specific Comments" section of this letter, Article 1, Section 18982 (a) (46), for further comments and recommendations.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
3183	DeChellis. P., City of La Canada Flintridge -- refers	<p>The proposed regulations require local governments to purchase recovered/recycled organic waste products targets set by CalRecycle. While we cannot see any statutory procurement requirement within the provisions of SB</p>	<p>SB 1383 contains a broad grant of regulatory authority to place requirements on jurisdictions designed to achieve the organic waste diversion goals in the statute. CalRecycle has determined the procurement requirements are necessary to achieve those goals by ensuring end uses for</p>

Comment Number	Received From	Question/Comment	Response(s)
	to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>1383, the implementation of these requirements will result in substantial additional costs to local governments over and above the costs jurisdictions already anticipate to incur for complying with the extensive programmatic requirements of the proposed regulations. Therefore, the Task Force respectfully request that CalRecycle instead work to develop markets for recovered/recycled organic waste products. Further, the additional costs that will result from complying with the proposed regulations' procurement requirements represent an unfunded state mandate under California Constitution, Article XIII B, Section 6 (a) since the proposed regulations would impose a new program on local governments and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local governments in SB 1383. Any fee that a city, a county or city and county attempts to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even if a fee were to survive scrutiny under Proposition 26, it is questionable whether a jurisdiction would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Proposition 218). This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, the Task Force requests that the proposed procurement requirements be addressed in a separate regulatory proceeding.</p>	<p>processed organic waste. Moreover, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
3184	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/	<p>The Task Force strongly believes that jurisdictions and regulated agencies would like to see the proposed regulations to be less prescriptive, more flexible, and less punitive, as well as to include reasonable timeframes for compliance. At the same time CalRecycle should focus state efforts on market development, technical support, including efforts to investigate emerging technologies leading to the development of new facilities and products, and funding for infrastructure.</p>	<p>Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments		
3185	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>“Special Districts” should be defined in the regulations. Furthermore, the regulations should clarify whether special districts are considered “jurisdictions” or “non-local entities,” since “special districts” are included in both definitions.</p>	<p>In response to this comment, CalRecycle defined a “special district” as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a “special district that provides solid waste collection services” is a jurisdiction. Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction’s regulations related to solid waste. The definition of “non- local entity,” lists special districts as an example of a type of entity that could be a “non- local entity” but it does not definitively state that all special districts are non-local entities. Any special district that is a “jurisdiction” and also a “non-local entity” generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3.</p>
3186	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The proposed definition of "Food recovery organization" as written includes temporary food facilities, as defined under Section 113842 of the Health and Safety Code. According to the Health and Safety Code (H&SC): Nonprofit charitable temporary food facilities" means either one of the following:</p> <p>(a) A temporary food facility, as defined in Section 113930 of the H&SC, that is conducted by a nonprofit charitable organization, as defined in Section 113841 of the H&SC.</p> <p>(b) An established club or organization of students that operates under the authorization of a school or other educational facility.</p> <p>Should these clubs and organization be included, local jurisdictions would have to:</p> <p>1) Annually identify all clubs or organizations at schools and other educational facilities (which are considered non-local entities) operating within the jurisdiction and maintain these school clubs and organizations on the jurisdiction’s website and outreach materials as potential temporary food facilities for use by commercial edible food generators - pursuant with Section 18985.2 of the proposed regulations.</p> <p>2) Assess the edible food recovery of school clubs and organizations which are involved in food recovery activities - pursuant to Section 18991.2(a)(2) of the proposed regulations.</p> <p>The Task Force recommends that nonprofit charitable temporary food facilities be excluded from the requirements listed under Section 18985.2(a)(1) and Section 18991.2(a)(2) of the proposed regulations, as they do not contribute greatly to existing food recovery capacity, and it would be an undue burden to both jurisdictions and student organizations to have to comply with these regulations.</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p>	<p>Removing “nonprofit charitable temporary food facilities” from the definition of “food recovery organization” was not necessary because these entities are a type of food recovery organization that should be recognized and also can help California achieve its 20% edible food recovery goal. However, CalRecycle recognizes that that assessing edible food recovery capacity at nonprofit charitable temporary food facilities could be onerous given that these entities include clubs or organizations of students that operate under the authorization of a school or other educational facility. To address this concern, CalRecycle revised section 18992.2. (a)(2) so that jurisdictions will not be required to assess capacity at nonprofit charitable temporary food facilities located within the county and jurisdictions within the county. This revision was necessary to help jurisdictions comply with the edible food recovery capacity planning requirements specified in Section 18992.2.</p> <p>Regarding the comment pertaining to Section 18985.2. Edible Food Recovery Education and Outreach (a)(1). The commenter has misinterpreted the requirement to develop a list of food recovery organizations and services operating within the jurisdiction. To clarify, the requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and services operating within the jurisdiction, just that “a list” be created, maintained on the jurisdiction’s website, and updated annually.</p> <p>It is at the discretion of the jurisdiction to determine the food recovery organizations and services that they believe should be included on the list. Please note that the list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with pursuant to Section 18991.3(b), and thereby 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.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(25) "Food recovery organization" means an entity that primarily engages in the collection or receipt of edible food from edible food generators and distributes that edible food to the public for consumption, including, but not limited to:</p> <p>(A) A food bank as defined in Section 113783 of the Health and Safety Code;</p> <p>(B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,</p> <p>(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.</p>	<p>Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing recovered edible food on a routine basis.</p>
3187	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The definition of "organic waste" as specified in the proposed regulations is extremely broad and means "solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges." This highly broad definition seems to state that organic waste includes any type of waste other than "inert waste." It may include solid waste, medical waste, non-inert hazardous waste, etc. The scope of this proposed definition can be reduced by limiting it to "organic solid waste." Furthermore, the definition in the regulations is inconsistent with the definition of "organic waste" in Section 42649.8(c) of the Public Resources Code (PRC), as established by Assembly Bill 1826 (2014). AB 1826 defines "organic waste" as "food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste." The intention of SB 1383 is to establish a statewide goal to reduce the landfill disposal of the types of organic waste listed under AB 1826. Therefore, the definition of organic waste in the proposed regulations should be revised to be consistent with the definition in AB 1826. Also see General Comment No. 3.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(46) "Organic waste" or "organic solid waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
3188	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/	<p>The definition of "renewable transportation fuel" without any justifiable reason and/or scientifically supported analysis, limits it to fuel derived from renewable gas through in-vessel digestion of organic waste only. The regulations should expand the definition of "renewable transportation fuel" to include fuel derived from renewable gas from other technologies, including thermal conversion technologies such as gasification and pyrolysis, as well methane gas generated from municipal solid waste landfills since it is biogenic in origin.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: 	<p>Regarding expanding "renewable gas" to include gas from technologies such as gasification and pyrolysis, CalRecycle disagrees with this approach. These technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.</p> <p>Regarding landfill gas, the SB 1383 mandate is to recover organic waste that would be disposed. Generating gas in municipal solid waste landfills requires disposal of organic waste in landfills;</p>

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments	(62) "Renewable transportation fuel" means fuel derived from renewable gas generated from organic waste that has been diverted from a landfill, and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, a biomass conversion facility that is permitted or otherwise authorized by Division 30 of the Public Resources Code to recycle organic waste, or any other process or technology that is subsequently deemed under section 18983.2 to constitute a reduction in landfill disposal.	therefore, it is inconsistent with statute to incentivize or mandate activities that do not reduce landfill disposal. CalRecycle revised the proposed regulatory text to allow for the use of electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.
3189	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The term "entity," which is referenced multiple times in the regulations, should be defined in the regulations.	CalRecycle did not include a definition for "entity" because it is using the term in the regulations consistent with the commonly understood dictionary definition of the word as opposed to a specialized term requiring regulatory clarification. The term "entity" is used thousands of times in various state statutes without definition for the same reason. Regarding commenter's concern regarding use of the phrase "...and other entities," this phrase appears almost exclusively in the "General Provisions" portion of the regulations at Sections 18981.1 and 18981.2 and is intended to be a catch-all term for entities that are subject to explicit regulation under this rulemaking (eg. food recovery services and organizations) that are not otherwise listed in those sections. In Section 18981.2, the phrase is further limited to other entities "subject to the jurisdiction's authority..." This is intended to exclude certain entities like state agencies, federal facilities, special agencies and other such entities that are not subject to a local jurisdiction's regulatory authority. See the definition of "non-local entity" in Section 18982(a)(42). CalRecycle agrees that any inspections are subject to Fourth Amendment requirements. CalRecycle agrees that a jurisdiction is not obligated to undertake inspections or other enforcement action against entities outside of their regulatory jurisdiction. Inspection and enforcement against a "non-local entity," as appropriate, would be undertaken by CalRecycle
3190	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The term "regional agency," which is referenced in Sections 18981.2 (b) (2), 18987.2 (a) (1), 18992.1 (a), 18992.1 (b), 18992.2 (a), and 18992.3 (a), should be defined in the regulations.	Regional agencies are defined in Public Resources Code Section 40181. Per Public Resources Code Section 40100, that definition extends to regulations adopted under Division 30 of the Public Resources Code.
3191	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County	The term non-organic waste, which is referenced in Sections 18982 (55) (A), 18984.1 (a) (1), 18984.1 (a) (2), 18984.1 (a) (3), 18984.2 (a) (2), 18984.2 (a) (3), 18984.9 (b) (1), 18986.1 (b), and 18986.2 (b), should be defined in the regulations.	Comment noted. CalRecycle has determined that a definition of "non-organic waste" is not necessary since it can be determined based on anything that falls outside the included regulatory definition of "organic waste."

Comment Number	Received From	Question/Comment	Response(s)
	Solid Waste Management Committee/ Integrated Waste Management Task Force comments		
3192	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The definition of “jurisdiction” has been modified in the proposed regulations to include “special districts that provide solid waste handling services.” No definition of solid waste handling is included in the proposed regulations; however, this phrase is defined in two sections of the Public Resources Code, (1) Section 40195 “the collection, transportation, storage, transfer, or processing of solid wastes”, and (2) Section 49505 “the collection, transportation, storage, transfer, or processing of solid waste for residential, commercial, institutional, or industrial users or customers.” This has created a problem in that some special districts provide some of those services but not all of them. Therefore, the Task Force requests that the proposed regulations be modified to only apply the requirements intended for a “jurisdiction” (as defined in the PRC Section 40145). As such the proposed change in the definition of jurisdiction is overly broad and should be narrowed to be consistent with the Public Resources Code definition of “jurisdiction” contained in Section 40145. In general, the Task Force recommends that CalRecycle keeps the definitions consistent with those in the Public Resources Code.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (36) “Jurisdiction” means a city, or county or a city and county or a special district that provides solid waste handling services. A city, county or county and city may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, or city and county shall remain ultimately responsible for compliance. 	Thank you for the comment. CalRecycle revised the definition of ‘jurisdiction’ in Section 18982(a)(36) because the original term “handling” as used in the definition is overly broad. This change is necessary to provide clarity.
3193	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>In addition to anaerobic digestion and composting, biosolids can also be processed through gasification. Biosolids that are gasified produce biochar, an organic soil amendment. The Task Force recommends that CalRecycle include the land application of biochar produced from biosolids as a reduction of landfill disposal. The California Energy Commission’s 2017 Integrated Energy Policy Report (2017 IEPR), published on April 16, 2018, states that the gasification of biosolids to produce biochar is a revenue source to promote the development of renewable natural gas (RNG) projects, which will be needed if jurisdictions are to meet the requirements to procure RNG transportation fuel per Section 18993.1(f)(2) of the proposed regulations.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (b) (6) Land application, as defined in Section 17852(a)(24.5), of this division subject to the following conditions: 	CalRecycle concurs that maintaining flexibility for other recovery processes, not specifically identified in section 18983.1(b), which may still constitute a reduction of disposal of organic waste and can achieve equivalent greenhouse house gas reduction that meets or exceeds the baseline of 0.30 MTCO2e per short ton. Therefore, the proposed regulations include Section 18983.2 Determination of Technologies That Constitute a Reduction in Landfill Disposal as a pathway for including additional activities and technologies.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(A) Green waste or green material shall meet the definition of Section 17852(a)(21) and shall have been processed at a solid waste facility, as defined by Section 40194 of the Public Resources Code.</p> <p>(B) Biosolids shall:</p> <ol style="list-style-type: none"> 1. Have undergone anaerobic digestion or composting, any of the pathogen treatment processes as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, or gasification, as defined in Section 40117 of the Public Resources Code, to produce biochar, as defined in Section 14513.5. of the Food and Agriculture Code, and, 2. Meet the requirements in Section 17852(a)(24.5)(B)(6) of this division for beneficial reuse of biosolids. <p>(C) Digestate shall:</p> <ol style="list-style-type: none"> 1. Have been anaerobically digested at an in-vessel digestion operation or facility, as described in 14 CCR sections 17896.8 through 17896.13; and, 2. Meet the land application requirements described in 14 CCR Section 17852(a)(24.5)(A). 3. Have obtained applicable approvals from the State and/or Regional Water Quality Control Board requirements. 	
3194	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>SB 1383, Section 42652 of the PRC reads as follows: "The Legislature finds and declares all of the following:</p> <p>"(a) The organic waste disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01.</p> <p>(b) Achieving organic waste disposal reduction targets require significant investment to develop organics recycling capacity.</p> <p>(c) More robust state and local funding mechanisms are needed to support the expansion of organics recycling capacity."</p> <p>Based on the foregoing, it is clear that the Legislature and the Governor, as a part of the SB 1383 enactment, emphasized the need for development of alternative technology facilities beyond composting and anaerobic digestion technologies/facilities, upon which CalRecycle has heavily relied, while not placing sufficient emphasis on development of alternative technologies and even subjecting them to heavily restrictive standards that other methods and processes are not subjected to (such as land application). In doing so, the state has created a significant obstacle to development of facilities utilizing these technologies without a clear and scientifically substantiated justification. For example, Section 18983.2 states "To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department and/or CARB's Executive Office shall compare the metric tons carbon dioxide equivalent (MTCO2e) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste" (emphasis added). To be consistent with requirements of PRC Section 42652 and technically correct, the analysis should be made in comparison to "landfilling" and not "composting." The Task Force would like to emphasize that the SB 1383 mandates reduction of organic waste disposal in</p>	<p>Several commenters suggested using avoided landfill emissions as the benchmark in the determination of processes or technologies that constitute a reduction in landfill disposal. Although this proposal might increase diversion of organics from landfills, it would not achieve the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 or the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO2e per short ton organic waste was set to ensure emission reductions for any new process or technology are comparable to the emission reductions necessary to achieve the strategy's emission reduction goal of 4 MMTCO2e for this sector.</p>

Comment Number	Received From	Question/Comment	Response(s)
		landfills and not any other type of facilities such as those utilizing conversion technology, (emphasis added).	
3195	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>This section does not specify obligations on the Department or the California Air Resources Board (CARB) to review the applications in a timely manner. The regulations must require the Department and CARB to make a determination in a realistic timeframe to facilitate the development of organics recycling infrastructure.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(2) The Department shall consult with CARB’s Executive Officer within 30 days of receiving the application to evaluate if the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation, and whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal. The Department shall provide a response to the applicant within 90 days of receiving the application whether the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation and, in the response, request additional information, if needed. The Department shall make a determination whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal, and inform the applicant of the decision within 180 days of receiving the application.</p>	<p>The commenters request greater certainty as to when to expect CARB and/or CalRecycle will determine whether a proposed process or technology constitutes a reduction in landfill disposal. CalRecycle added clarification in the regulation, including that CalRecycle would let applicants know within 30 days of receipt of the application whether or not CalRecycle needs more information to process the application, and that CalRecycle will inform the applicant within 180 days after they have all needed information as to whether or not the process or technology is deemed to count as a reduction in landfill disposal. This timeline will provide applicants with a reasonable timeline for receiving determinations on proposed processes or technologies.</p>
3196	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>CalRecycle and CARB have joint authority over the verified technology determination. As the SB 1383 regulation text currently reads, either CalRecycle, CARB, or both can make this determination. The roles must be better defined to avoid delaying the technology verification process and to facilitate the development of new infrastructure.</p>	<p>CalRecycle modified the text to clarify that CalRecycle, as the entity overseeing implementation of this regulation, makes the final determination of whether a process or technology constitutes a reduction in landfill disposal. This change is needed to clarify roles.</p>
3197	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/	<p>Section 18983.2 specifies the process used to determine if operations, facilities or activities not expressly identified in the regulation shall be deemed to constitute a reduction of landfill disposal. Once this determination is made, it would be reasonable for comparable processes or technologies to be similarly deemed to constitute a reduction of landfill disposal. Section 18983.2(c) appears to provide this opportunity. The regulations must clarify if this is the intent and the section must be expanded to more specifically outline the streamlined approach that would be followed. To facilitate infrastructure development, future applicants should not be required to repeat the verification process for an already-approved process.</p>	<p>As noted in the Initial Statement of Reasons, the purpose of subdivision 18983.2(c) “is to allow an applicant to request that CalRecycle consider additional information not otherwise required in Article 2 that shows that 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.” This section is not meant to streamline applications but is meant to allow for applicants not to go through the full process/technology application process if an identical or equivalent technology for process has already been approved.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments		
3198	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984. The regulations are prescriptive in the requirements for organic waste collection services provided by the jurisdictions. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (emphasis added). Therefore, the Task Force recommends that CalRecycle revise the regulations to incorporate provisions for jurisdictions demonstrating a “good faith effort” to comply.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) This article specifies the minimum recommended standards for organic waste collection services provided by jurisdictions, outlines efforts jurisdictions must demonstrate a good faith effort to engage in to reduce container contamination, delineates recommended container color and labeling requirements, specifies criteria for rural jurisdictions to be exempt from specified requirements of this section and criteria for jurisdictions to waive requirements for specified generators. This article additionally specifies associated recordkeeping requirements for these standards. 3199 No change. See responses to comments 6196, 6197.No change. SB 1383 provides a broad grant of regulatory authority to the Department to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and insure that the statewide organic requirements are met. The department has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals. Regarding Public Resources Code Section 40059, these regulations are not inconsistent because this section applies to aspects of solid waste handling “which are of local concern.” Public Resources Code Section 40059 is not a limitation on the Department from regulating aspects of solid waste handling that are of statewide concern such as the achievement of organic waste diversion mandates in SB 1383. Public Resources Code Section 40059 specifically states “Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern...” This phrase was designed to make clear that the state was not preempting the entire field of solid waste handling and that local jurisdictions were still allowed to regulate</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
3199	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>in certain areas involving matters of local concern. ELLIOT/TAMAR. Note my response to Comment 3180.</p> <p>Pursuant to SB 1383, Subdivision 45652 of the PRC, the Legislature, among other things, finds and declares that “(a) The organic waste disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01.” The “simplest” way to measure the reduction of organic waste disposal is to quantify the tonnages of organic waste being diverted. As such, the Task Force questions the prescriptive/mandatory collection services, including the required containers and their colors, which would be mandated by the proposed regulations, are unnecessarily onerous and would impose a significant cost to counties, cities, and their residents and businesses. The Task Force strongly recommends that CalRecycle conduct and make available a detailed cost benefit analysis of the various alternative approaches to the mandatory organic waste collection service requirements considered. The Task Force also believes that said requirements are inconsistent with the state law, PRC Section 40059. The Task Force respectfully requests CalRecycle to address these issues in the next version of the proposed regulations.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.</p> <p>Regarding Public Resources Code Section 40059, there are two phrases that must be taken into account in its application to SB 1383.</p> <p>First, Public Resources Code Section 40059 applies to aspects of solid waste handling “which are of local concern.” The organic waste diversion mandates in SB 1383 are of statewide application and statewide concern. As described in other responses to comments, CalRecycle was granted broad statutory authority by the Legislature to create rules designed to implement these statewide mandates and ensure the statutory organic waste diversion requirements are met. To the extent there are provisions in the rulemaking that touch on aspects of local solid waste handling, these are regarding matters of statewide concern that have been determined by CalRecycle to be necessary to achieve the goals of SB 1383.</p> <p>Second, Public Resources Code Section 40059 contains the introductory phrase, “Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern...” This phrase contemplates that other laws exist that may affect local solid waste handling and that the mere existence of those laws does not automatically preempt local governments from regulating the enumerated subject areas. It was designed to make clear that the state was not preempting the entire field of solid waste handling and that local jurisdictions were still allowed to regulate in certain areas.</p> <p>As such, Public Resources Code 40059 is not a limitation on CalRecycle from regulating aspects of solid waste handling to the extent they are of statewide concern.</p>
3200	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/	<p>Section 18984.4. Recordkeeping Requirements for Compliance with Organic Collection</p> <p>The Task Force is concerned about the requirement (a)(3)(D) which states that the jurisdiction must provide the geographical areas served by the haulers, along with routes serviced, or a list of addresses served. Jurisdictions, through their franchise agreements/contracts, have committed to protecting proprietary information which may result in an economic disadvantage should the information be disclosed to haulers' competitors. The Task Force recommends order to protect the hauler's proprietary information.</p>	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure. The proposed regulations provide for this.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments	<p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) A jurisdiction shall include the following information and documents in the Implementation Record required by Section 18995.2 of this chapter:</p> <p>(1) A description of which collection method(s) it will use to comply with this article.</p> <p>(2) The geographical area for each collection method</p> <p>(3) If the jurisdiction is using a service that requires the contents of containers provided by the jurisdiction to be transported to a high diversion organic waste processing facility, the jurisdiction shall at a minimum:</p> <p>(A) List all high diversion organic waste processing facilities used by the jurisdiction.</p> <p>(B) Include copies of, quarterly and annual average mixed waste organic content recovery rates, for each of those facilities, as defined in Section 18984.3.</p> <p>(C) List all approved haulers in the jurisdiction that are allowed to take organic waste to the jurisdiction’s identified high diversion organic waste processing facility or facilities.</p> <p>(D) The geographical area the hauler(s) serves, or the routes serviced, or a list of addresses served.</p>	
3201	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.5. Container Contamination Minimization</p> <p>The regulations require jurisdictions to monitor containers and conduct route reviews as part of the container contamination minimization protocol. Furthermore, Section 18997.3 Base Table 1 lists monetary penalties for jurisdictions not implementing a container contamination minimization protocol. However, Section 17409.5.7.(c), Section 17409.5.11(b)(4), Section 17867(a)(4)(E), Section 17896.25.1(d), and Section 20901(d) state that the enforcement agency (EA) may approve an alternative frequency for load checking at a facility if the facility receives waste from jurisdictions that are monitoring containers using the container contamination minimization described in Section 18984.5. This implies that a jurisdictions’ implementation of the container contamination minimization protocol is not required. CalRecycle should clarify in the regulations whether jurisdictions are required to implement a container contamination minimization protocol.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization</p>
3202	DeChellis. P., City of La Canada	<p>Section 18984.5. Container Contamination Minimization</p> <p>This section indicates that if a jurisdiction is utilizing a two or three-container</p>	<p>Thank you for the comment. CalRecycle made the proposed changes, including changing from quarterly to annually. Also, jurisdictions may set what the routes are and the number of random</p>

Comment Number	Received From	Question/Comment	Response(s)
	Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>collection system, all collection routes must be reviewed quarterly for prohibited container contaminants. Due to the size of a jurisdiction, such as the County of Los Angeles geographical jurisdiction and the number of routes presently served, this presents an incredible burden on the jurisdiction's labor and financial resources. The Task Force recommends reducing the monitoring frequency requirement to something that jurisdictions may more realistically meet. The Task Force recommends shifting this requirement to not less than annually with statistically representative sampling. The Task Force believes similar results can be derived if certain routes are sampled by specific geographic regions (such as community) or population density.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) A jurisdiction shall conduct a route review for prohibited container contaminants on randomly selected containers in a manner that results in all collection routes being reviewed quarterly annually.</p>	<p>containers to select, which is the least costly and burdensome approach. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3203	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.10. Property and Business Owner Responsibilities</p> <p>The Task Force recommends that this section be revised to specify that residential property owners do not have to arrange for access to individual residential unit, but only to common areas where solid waste and recycling containers are stored or may be stored. Inspectors cannot enter a private property without a Court order. However, inspections of residential containers can be made once the containers are placed in the designated area for collection.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) Property and business owners shall provide or arrange for access to their properties, excluding the interior of each residential unit within the property, during all inspections conducted pursuant to Article 14 of this chapter (commencing with Section 18995). Residential containers can be inspected if they are placed in the designated area for collection.</p>	<p>CalRecycle revised Section 18984.10(c) in response to this comment to specify that residential property owners do not have to arrange for access to individual residential unit.</p>
3204	DeChellis. P., City of La Canada Flintridge -- refers to attached Los	<p>Section 18984.12. Waivers and Exemptions Granted by the Department</p> <p>This section does not recognize the good faith efforts of a jurisdiction to comply with the provisions of this chapter but that is unable to fully comply due to</p>	<p>Section 18996.2 includes all circumstances outside of a jurisdiction's control, including the inability to identify a facility with sufficient capacity to process the materials. The regulations require a jurisdiction to demonstrate that extenuating circumstances exist and that it has made a "substantial effort" which means that it has taken all practicable actions to comply.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>circumstances beyond its control. Provisions need to be provided for good faith efforts.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (d) The Department may grant waivers and/or extensions to any generator, hauler, or jurisdiction that has made good faith efforts to comply with the requirements of this article but has been unable to identify a facility with sufficient capacity to process the materials. 	
3205	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Chapter 3.1, Article 3, Section 17867 and Chapter 3.2, Article 3, Section 17867 of the proposed regulations state that material subject to a quarantine on movement issued by a county agricultural commissioner is considered incompatible material rather than organic waste. The regulations should clarify whether quarantined green waste will be exempt from the landfill disposal reduction requirements for organic waste. If quarantined green waste is required to be that the disposed tonnage will not count against the 50 percent and 75 percent landfill disposal reduction targets.</p> <p>In addition, CalRecycle should grant a waiver or exemption for material subject to a quarantine on movement issued by a county agricultural commissioner. Once this quarantined material is collected, it could be transferred to a facility outside of the quarantined zone contaminating other non-quarantined organic waste and spread disease, pests, or harmful bacteria or microorganisms. Additionally, the regulations should also provide a definition for “quarantined material.”</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (d-e) Quarantined Material (1) The Department shall grant an exemption for organic waste collection, as specified in this chapter, for material subject to a quarantine on movement issued by a county agricultural commissioner. A jurisdiction may dispose of organic material if it is subject to a quarantine on movement issued by a county agricultural commissioner. 	<p>Thank you for the comment. Section 18984.5 was amended, "For the purposes of demonstrating compliance with 18998.1, organic waste that is textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a county agricultural commissioner, is not required to be measured as organic waste."</p> <p>These materials may be disposed without counting against a jurisdiction as they comprise a minimal portion of the organic waste stream and/or are uniquely difficult or problematic to recover from a health and safety perspective. Additionally, Section 18984.13 allows for the disposal of this waste.</p>
3206	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Please clarify if the definition of “organic waste” that is required to be separated either at the source or at a high-diversion materials recovery facility and diverted from landfill includes organic waste collected from routine non-emergency debris and catch basin cleanouts. The Task Force recommends that organic waste collected from debris and catch basin cleanouts be excluded from the diversion requirements. Because this organic waste accumulates in the stormwater system and is not disposed by any particular generator in a container, it is likely to contain significant contamination and is difficult to separate from other waste and recycle. The Task Force recommends adding a waiver to the regulations addressing organic waste collected from routine cleanouts of debris basins, catch basins, and other stormwater infrastructure.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (d) Stormwater Infrastructure Exemptions: 	<p>This situation is already covered in Section 18984.13(b)(3). This section allows for disposal of sediment debris removed from dams, culverts, reservoirs, channels and other flood control infrastructure.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1)The Department shall grant waivers for organic waste collected from routine clean-outs of catch basins, debris basins, and other stormwater infrastructure. A local jurisdiction or private contractor may apply to the Department for a general waiver to exempt the organic waste collected from stormwater infrastructures.</p> <p>(d e) Nothing in this section 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</p>	
3207	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.13, Emergency Circumstances. This section does not address compliance requirements for those cases for which "State of Emergency" as proclaimed by the Governor and defined by the California Code of Regulations, Title 14, Section 17210.1 (k).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) (3) In a case of a "State of Emergency" as proclaimed by the Governor and defined in Section 17210.1 (k) of this division, the Department shall grant a waiver to a jurisdiction(s) from complying with the requirements of this article. Additionally, disaster debris generated from such an emergency shall not be counted as jurisdictional disposal for the purpose of measuring compliance with requirements of this chapter by the Department.</p>	<p>Section 19894.13(b)(1) specifically references Sections 17210.4 (Granting An Emergency Waiver) and 17210.9 (Executive Director's Powers and Duties Relative to the Emergency Waiver) and addresses situations where the governor has declared a state of emergency as defined in Section 17210.1(k).</p> <p>A change in the regulatory text to not count disaster debris as jurisdictional disposal is not necessary. Again jurisdictions are subject to complying with regulatory actions, there is no jurisdictional disposal requirement for the purposes of this chapter.</p>
3208	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.13, Emergency Circumstances</p> <p>The Department should grant a waiver for jurisdictions demonstrating a good faith effort to comply with the regulations but are unable to do so due to factors outside of their control. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider "good faith effort" in determining a jurisdiction's progress in complying with the law. It states that CalRecycle "shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825..." (emphasis added).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) Rural Exemptions:</p> <p>(1)The Department shall grant an exemption from complying with the organic waste collection requirements specified in this article for Rural Jurisdictions that meet the definition of a "Rural Jurisdiction" in Section 42649.8 of the Public Resources Code, if the governing body of the jurisdiction adopts a resolution that includes a finding as to the purpose of and need for the exemption.</p> <p>(2) An exemption implemented pursuant to this subdivision shall be valid until January 1, 2025, or until five years after the Department makes a determination pursuant to Section 42649.82 (a)(2)(D) that the statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, whichever is later.</p> <p>(d) Good Faith Effort Exemptions:</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1) The Department shall grant an exemption from complying with a part of or all of the requirements of the regulations for a jurisdiction demonstrating a “good faith effort” to comply but cannot do so due to factors outside of its control.</p> <p>(d e) Nothing in this section exempts a jurisdiction from complying with the other requirements to promote and 40 provide information to generators about, waste prevention, community composting, managing organic waste 41 on-site, and other means of recovering organic waste, or any other requirements of this chapter.</p>	
3209	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18985.1. Organic Waste Recovery Education and Outreach</p> <p>Since solid waste facility operators are in direct contact with self-haulers and jurisdictions currently have no way of identifying a generator who is a self-hauler, the Task Force recommends giving solid waste facility operators the defined role of providing information regarding the requirements of Section 18988.3 of this chapter to the self-haulers.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Prior to February 1, 2022, and annually thereafter, a jurisdiction solid waste facility operators shall provide to self-haulers information regarding the requirements of Section 18988.3 of this chapter.</p>	CalRecycle deleted requirements that jurisdictions specifically identify and educate self-haulers in response to this comment. Jurisdictions can meet the requirement to educate self-haulers by including information on self-hauling in their general education and outreach material provided to all generators. CalRecycle deleted language requiring solid waste facility operators to educate self-haulers as it would be overly burdensome and is outside the scope of what EAs monitor at solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction.
3210	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18985.1. Organic Waste Recovery Education and Outreach</p> <p>Los Angeles County is a very linguistically diverse county. Within the unincorporated areas alone, there are many generators that are "Limited English Speakers". The Task Force is concerned that the regulations may require jurisdictions to provide the education and outreach materials in every language spoken by generators within a given jurisdiction.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(f) If more than five percent of a jurisdiction’s generators are defined as “Limited English Speaking Households,” or “linguistically isolated,” as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a the most common language or languages that will assure the information is understood by those generators and may provide the information required by this section in other languages, upon request from a generator.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3211	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18986.1. Non-Local Entities Requirements states that “materials subject to a quarantine on movement issued by a county” shall not be deposited in organic waste containers (green) or recycling containers (blue). However, the proposal does not prohibit disposal in the gray container, leading to the ultimate transfer of these materials to solid waste facilities which would cause the spread of contamination and/or disease. This issue needs to be addressed in the next version of the proposed regulations. Furthermore, collection requirements for non-local entities should be consistent with the requirements for collection services provided by jurisdictions to other generators, including residents and businesses. The requirements for collection services provided by local jurisdictions do not make reference to</p>	Thank you for the comment. CalRecycle amended the applicable section to state that a non-local entity's collection service shall be in compliance with the requirements in Article 3. Section 18986.1 was also amended to address hazardous wood waste should not be placed in the green, blue, or gray container to be consistent with Article 3.

Comment Number	Received From	Question/Comment	Response(s)
3212	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>restrictions on the disposal of “materials subject to a quarantine on movement by a county” in any collection container.</p> <p>Section 18986.2. Local Education Agencies Requirements requirements for commercial businesses, multifamily properties, and non-local entities. Unlike the other aforementioned groups, Section 18986.2 does not include requirements for local education agencies to prohibit the placement of organic waste in containers not designated for organic waste, and to periodically inspect collection containers for and inform employees of observed contamination. The Task Force recommends that the Department create uniform requirements for all regulated entities, included local education agencies, so as to afford equal treatment.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Local education agencies shall also:</p> <p>(1) Provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located. The containers provided shall conform to the requirements of the containers provided through the organic waste recovery service to which the local education agency is subscribed.</p> <p>(2) Prohibit their employees and students from placing organic waste in containers not designated for organic waste as set forth in Section 18984.1.(a)(5) and Section 18984.2.(a)(5) of this chapter.</p> <p>(3) Periodically inspect organic waste containers for contamination and inform employees if containers are contaminated, and of the requirement to only use those containers for organic waste</p>	CalRecycle has revised Section 18986.2 to reflect that local education agencies shall prohibit their employees from placing organic waste in the incorrect container.
3213	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>It is unclear what conditions would render sewage sludge and biosolids not suitable for additional processing or recovery and require them to be sent for disposal. In addition, as written, the regulations seem to indicate that biosolids can only be disposed if they cannot be recovered. CalRecycle should not require all biosolids to be recovered and should not limit landfill disposal of biosolids as long as the organic waste landfill disposal reduction targets can be satisfied. Additionally, the remaining sewage sludge and biosolids sent for disposal to appropriate permitted disposal facilities should not be counted as disposal against the host jurisdictions in which the POTW and disposal facility is located.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) Sewage sludge and B biosolids generated at a POTW shall may be:</p> <p>(1) Transported only to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 20.1(b) of this Division, or</p> <p>(2) Notwithstanding subdivision (a)(1), sewage sludge and biosolids not suitable for additional processing or recovery may be s Sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the local, regional, state, and federal agencies having appropriate jurisdiction.</p>	CalRecycle has deleted Section 18987.2 in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(3) Residual sewage sludge and biosolids that are remaining after treatment at a POTW and destined for disposal are not subject to requirements of this chapter including, but not limited to, organic waste disposal reduction .</p>	
3214	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18988.3. Self-haulers of Organic Waste As written, the regulations require self-haulers to source-separate all organic waste generated on site. Self-haulers should not be held to more stringent standards than contracted haulers and should also be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) Generators of organic waste may, in compliance with Section 18988.1 of this Division self-haul their own organic waste. (b) A generator who is a self-hauler of organic waste shall comply with the following: (1) The generator shall source-separate all organic waste generated on site in a manner consistent with 14 CCR Section 30.1 and 30.2 of this chapter. (1) The generator shall haul source-separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source-separated organic waste. (2) (2) The generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the jurisdiction. (A) The records shall include delivery receipts and weight tickets from the entity accepting the waste. (B) The record shall indicate the amount of material in cubic yards or tons transported by the generator to each entity. (C) Notwithstanding subdivision (b)(3)(A), if the material is transported to an entity that does not have scales on-site, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste. (4) (3) A self-hauler shall annually report the following to the jurisdiction in which it is located: (A) The total amount of source-separated organic waste in tons that was self-hauled; and, (B) The location or address of each entity that accepted self-hauled waste from the generator. (5) (4) A residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in subdivision (b)(2) and (b)(3).</p>	CalRecycle revised Section 18988.3 in response to this comment to clarify that self-haulers should not be held to more stringent standards than contracted haulers and should be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.
3215	DeChellis. P., City of La Canada Flintridge -- refers to attached Los	<p>Section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program jurisdiction must provide copies of all reports required by haulers to the Department (emphasis added). Jurisdictions, through their franchise</p>	The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to

Comment Number	Received From	Question/Comment	Response(s)
	Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>agreements/contracts, have committed to protecting proprietary information which may result in an economic disadvantage should the information be disclosed to haulers' competitors. The Task Force recommends removing the requirement for jurisdictions to provide copies of all reports in order to protect the hauler's proprietary information.</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the Implementation Record required by Article 14 of this chapter. Records maintained shall include but are not limited to copies of:</p> <p>(1) Ordinances, contracts, franchise agreements, policies procedures, or programs relevant to this section.</p> <p>(2) A description of the jurisdiction's hauler program including:</p> <p>(A) Type of hauler systems the jurisdictions uses.</p> <p>(B) Type and conditions of approvals per type of hauler, and criteria for approvals, denials and revocations. (C) Process for issuing, revoking, and denying written approvals.</p> <p>(D) Any requirements associated with self-hauling and back-hauling.</p> <p>(3) A record of hauler compliance with local ordinance(s) and the requirements of this article including the following information:</p> <p>(A) Copies of all reports required by haulers.</p> <p>(B) A Copies of reports from self-hauler as required by Section 18988.3.</p> <p>(C) B Copies of all written approvals, denials, and revocations.</p> <p>(b) All records required by this article shall include the date of action, the name of the hauler, and the type of the action taken by the jurisdiction.</p>	allow public agencies to withhold such information from public disclosure. The proposed regulations provide for this
3216	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18989.1 Cal Green Building Code</p> <p>The "non-local entities" and "local education agencies" do not report to local jurisdictions and, in most cases, they are not regulated by the local jurisdiction's building officials. As such, the Department is the best entity for managing the requirements of Section 18989.1. for these generators. The Department will be responsible for tracking and ensuring compliance by non-local entities and local education agencies.</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(b) Non-local entities and local education agencies are to comply with requirements of Subsections (a)(1) and (a)(2) and reporting to the Department.</p>	No change in regulatory language is necessary since other sections of the regulations make clear that the Department has oversight authority over non-local entities and local education agencies.
3217	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste	<p>Section 18990.1. Organic Waste Recovery Standards and Policies</p> <p>Based on provisions of Subsection (c)(4), the proposed requirements of the Subsection(b)(3) contradict the decision in UNITED HAULERS ASSOCIATION, INC., ET AL V. ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY ET AL., that prevents jurisdictions to utilize flow control.</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p>	Oneida-Herkimer states that an ordinance requiring waste go to a public facility does not violate the flow control restrictions of the Commerce Clause, it does not authorize or require that municipalities be allowed to do so under the US Constitution nor does it prohibit a state from prohibiting such restrictions.. The Integrated Waste Management Act (IWMA) explicitly promotes the free movement of material under Public Resources Code Sections 40001 and 40002 and this restriction is designed to ensure that.

Comment Number	Received From	Question/Comment	Response(s)
	Management Committee/ Integrated Waste Management Task Force comments	(b)(3) Limit the export outside of organic waste to a facility, operation, property or activity outside the jurisdiction that recovers the organic waste through a method identified in Article 2 of this chapter. (c)(4) Prohibit a jurisdiction from arranging through a contract or franchise for hauler or a self-haul organic waste generator to transport organic waste to a particular solid waste facility or operation for processing or recovery.	Section 18990.1 (b)(3) prohibits the limitation of exports outside the jurisdiction, which is necessary in order to address the need for regional collaboration and to ensure the highest diversion rates are achieved in order to meet the goals of the statute. CalRecycle did make a change to subsection (b)(3), however, to remove bad syntax in response to this comment.
3218	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18991.1. Jurisdiction Edible Food Recovery Program The Task Force recommends that the State specify that jurisdictions are required to provide education and monitor compliance of commercial edible food generators but that this requirement excludes certain Tier Two commercial edible food generators, namely "non-local entities" and "local education agencies". Because non-local entities and local education agencies do not report to local jurisdictions, the Department is the best entity for managing the requirements of Section 18991.1 for these generators. The Department will be responsible for tracking waivers and exemptions for these groups and would be in the best position to education, monitor, and conduct outreach to these generators. • Proposed Regulatory Text and Recommended Changes/Revisions: (a) A jurisdiction shall implement an edible food recovery program that shall include the actions that the jurisdiction plans to take to accomplish the following: (1) Educate commercial edible food generators with the exception of non-local entities and local education agencies as set forth in Section 18985.2. (2) Increase the access of commercial edible food generators access with the exception of non-local entities and local education agencies to edible food recovery organizations and edible food recovery services. (3) Monitor the compliance of commercial edible food generators compliance with the exception of non-local entities and local education agencies as required in Article 14. (4) Increase edible food recovery capacity if the analysis required by Section 18992.1 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs. (b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms.	Although jurisdictions will not enforce non-local entities or local education agencies, jurisdictions are still required to provide non-local entities and local education agencies with edible food recovery education and outreach pursuant to Section 18991.1 (a)(1) and Section 18985.2 of the regulations. CalRecycle would also like to clarify that jurisdictions are required to increase all commercial edible food generators' access to food recovery organizations and food recovery services including local education agencies and non-local entities located within the jurisdiction. In addition, it is clear from the definition of "non-local entity" and "local education agency" that they are not subject to the control of a jurisdiction's authority; therefore, is it implicit that jurisdictions are only to enforce on those they have authority over. CalRecycle is responsible for monitoring compliance and enforcement of those entities. Regarding the comment about CalRecycle being responsible for tracking waivers and exemptions for these groups and would be in the best position to educate, monitor, and conduct outreach to these generators, the regulatory text does not include commercial edible food generator waivers or exemptions.
3219	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/	Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program • Proposed Regulatory Text and Recommended Changes/Revisions: (a) A jurisdiction shall include all documents supporting its compliance with Section 18991.1 in the Implementation Record required by Section 18995.2 of this chapter and shall also include at a minimum: (1) A list of commercial edible food generators with the exception of non-local entities and local education agencies in the jurisdiction that have arrangements with edible food recovery organizations or services. Non-local entities and local education agencies are to report to the Department, as appropriate.	Section 18991.2 requires jurisdictions to include all documents supporting its compliance with Section 18991.1 in the Implementation Record. To clarify, since jurisdictions are not required to monitor the compliance of non-local entities or local education agencies, jurisdictions are therefore not required to include non-local entities or local education agencies on their list pursuant to Section 18991.2 (a)(1). However, all commercial edible food generators in the jurisdiction (that are not non-local entities or local education agencies) 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).

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments		CalRecycle would also like to clarify that 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 non-local entities and local education agencies. Therefore, the jurisdiction must identify all commercial edible food generators in the jurisdiction (including non-local entities and local education agencies) and include the number of all those commercial edible food generators on its list required in Section 18994.2 (h)(1).
3220	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18991.3. Commercial Edible Food Generators If a large event is held at a State-owned facility, such as a state park, the regulations should clarify that it is the responsibility of the Department to ensure compliance with this Section 18991.3. and Section 18997.2. Penalty Amounts.	To clarify, if the commercial edible food generator operating at the event or facility is subject to the jurisdiction's authority then it is the responsibility of the jurisdiction to monitor compliance and enforce. If the commercial edible food generator is not subject to a jurisdiction's authority, then is it CalRecycle's responsibility to monitor compliance and enforce.
3221	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18992.1. Organic Waste Recycling Capacity Planning It should be recognized that the local task force created pursuant to Section 40950 of the Public Resource Code can be an asset to the county and the cities within the county in data collection and planning efforts listed in Section 18992.1(a). • Proposed Regulatory Text and Recommended Changes/Revisions: (a) "Counties in coordination with cities, and regional agencies located within the county, and the local task force created pursuant to Section 40950 of the PRC, shall:"	A change in the regulatory text is not necessary because the regulations already identify local task forces as needing to be consulted.
3222	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18992.1. Organic Waste Recycling Capacity Planning There is major concern with jurisdictions being required to "verify" that capacity is available to them through contracts, permits, franchise or guarantees of access documentation. Considering that there is already a shortfall in organic waste management capacity statewide, it is inevitable that some jurisdictions will be without capacity. This may result in a competitive bidding war and/or implementation of flow control by some entities. Proposed Regulatory Text and Recommended Changes/Revisions: (a) (2) The jurisdiction in which the facility is located, and all appropriate Regional, State and Federal non-local entities and local education agencies, shall identify the amount in tons of the existing organic waste recycling infrastructure capacity at each fully permitted facility , which they are or intent to use, located both in the county and outside of the county, that is verifiably available to the county, and	CalRecycle declines the suggested change. The section at issue, as worded, provides an option for capacity demonstration but is not a requirement for demonstration.

Comment Number	Received From	Question/Comment	Response(s)
		<p>jurisdictions, non-local entities and local education agencies located within the county.</p> <p>(A) A county can demonstrate the capacity is verifiably available to the county or its jurisdictions through a contract, permit, franchise, or other documentation of the following:</p> <ol style="list-style-type: none"> 1. A guarantee of access to existing permitted or authorized capacity at a A binding guarantee of access and tonnage capacity to an existing and fully permitted facility, activity, operation, or property that recovers organic waste. 2. A guarantee of access to new or expanded capacity at a fully permitted facility, activity, operation, or property that recovers organic waste that will be available prior to the end of the reporting period. 	
3223	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>Cities or regional agencies are required to respond within 120 days to a county when contacted about the amount of organic waste in tons that will be disposed by the cities. A similar requirement also needs to be imposed on non-local entities and local education agencies because most likely these entities will be using facilities/capacity within the said county. Since counties are penalized financially for failing to estimate organic waste disposed, the Task Force recommends including language within this section that ensures that counties are not liable if cities, non-local entities, local education agencies or regional agencies fail to respond within the given time frame.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) A city, non-local entity, local education agency or regional agency contacted by a county pursuant to subdivision (a) shall 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.</p> <p>(1) If a city, non-local entity, local education agency or regional agency does not provide the necessary information to the County within the required timeframe, the County will not be held liable for failing to fully comply with requirements of this Article 11. report on this jurisdiction’s organic waste disposal.</p>	<p>The language was revised to accommodate this request. Language stating the following was added:</p> <p>“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...”</p> <p>Non-local entities and local education agencies are not required to report information to jurisdictions under this article.</p>
3224	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>The regulations state that the county shall conduct community outreach regarding locations being considered for new or expanded facilities, in- or outside the county. We recommend that this responsibility be the role of the jurisdiction (host city or host county for unincorporated area) in which the new or expanded facility is being proposed, and not solely the role of the county regardless of the location of the new or expanded facility.</p> <p>In addition, the regulations state that haulers and owners of facilities, operations, and activities that recover organic waste shall respond to the jurisdiction regarding potential new or expanded capacity at their facilities; however, it does not include “existing capacity”.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p>	<p>The community outreach required in Section 18992.1(c)(3) is intended for the facilities or activities located within the county. Counties can work in coordination with cities to provide this outreach. Nothing precludes cities from providing outreach.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(c) In complying with this section, the county, city, and/or regional agency depending on the location of the facility or activity shall:</p> <p>(1) Consult with the Enforcement Agency and the local task force created pursuant to Section 40950 of the Public Resources Code on the status of locations for new or expanded solid waste facilities including the potential capacity increase each facility may provide if approved.</p> <p>(2) Consult with haulers and owners of facilities, operations, and activities that recover organic waste including, but not limited to, compost facilities, in-vessel digestion facilities, and Publicly Owned Treatment Works to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities.</p> <p>(A) Entities contacted by a jurisdiction shall respond within 60 days of receiving the request to the jurisdiction regarding existing and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes</p>	
3225	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>The regulations state that the county shall conduct community outreach regarding locations being considered for new or expanded facilities. The regulations should clarify if this outreach must be done throughout an entire city that a new or expanded facility is being considered or within a radius of a certain number of miles from the address at which the facility is being proposed.</p> <p>For example, if a facility is being considered in City A, does the outreach need to take place in all areas of City A, only or does it need to take place within an "X" mile radius of the proposed facility?</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(3) 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. The community outreach shall:</p> <p>(A) Be conducted within a X mile radius of the location of the proposed new or expanded facility.</p> <p>(A)(B) Include at least one of the following forms of communication: public workshops or meetings, print noticing, and electronic noticing.</p> <p>(B)(C) If applicable be conducted in coordination with potential solid waste facility operators that may use the location identified by the county.</p> <p>(C)(D) Specifically include communication to disadvantaged communities that may be impacted by the development of new facilities at the locations identified by the county. If more than five percent of that community is defined as "Limited English Speaking Households," or "linguistically isolated," as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a language or languages that will assure that the information is understood by that community.</p>	The regulations regarding community outreach are worded in a manner to provide flexibility to jurisdictions on the method and scope of outreach. CalRecycle declines to put a particular mileage radius on outreach.

Comment Number	Received From	Question/Comment	Response(s)
3226	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>According to SB 1383, CalRecycle, in consultation with CARB, shall adopt regulations that achieve the specified targets for reducing organic waste in landfills (i.e., a 50-percent reduction by 2020 and a 75-percent reduction by 2025). The current draft of the regulations state that a jurisdiction that lacks sufficient capacity shall “demonstrate how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period.” The way it is currently written, it appears that the regulations are requiring that all organic waste that is currently disposed be recovered (or planned for recovery) by the end of the report period.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) If a county determines that organic waste recycling capacity, in addition to the existing and proposed capacity identified pursuant to subsection (a), is needed within that county, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity that each jurisdiction is required to:</p> <p>(1) Submit an implementation schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover an amount of the organic waste that is equivalent to a 50-percent reduction in 2014 organic waste disposal levels by 2020, and a 75-percent reduction by 2025 currently disposed by generators within their jurisdiction by the end of the report period set forth in Section 18992.3 of this article.</p>	A change to the regulatory text is not necessary because the proposed change would entail placing a numerical limit on a jurisdiction, which is not allowed by the statute.
3227	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>Including options that would require jurisdictions to plan for obtaining funding or provide financial support for expansion of organic waste recycling facilities would put an undue burden on jurisdictions. The Task Force recommends that this language be removed and replaced with other options including efforts by the Department and State to promote the development of new facilities.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d)(1) Submit an implementation schedule plan to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed of by generators within their jurisdiction by the end of the report period.</p> <p>(A) The implementation schedule plan shall include timelines and milestones for planning efforts to access strategies for ensuring additional new or expanded capacity, including, but not limited to:</p>	The current provisions are necessary to ensure that jurisdictions are taking specific steps to ensure access to capacity in the future. As has been stated by many stakeholders and jurisdictions, a distinct lack of organic waste recycling capacity will be a hinderance to achieving the organic waste reduction targets by 2025. The regulations are not only designed to achieve the target by 2025, they are, and must be, designed to achieve and maintain organic waste disposal 75 percent below the 2014 levels beyond the year 2025. This requires active planning by jurisdictions to identify future needs and secure capacity. The proposed language is vague and subjective, it is unclear what minimum standard discussing ‘strategies’ could be held to.
3228	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>“Identify” is spelled incorrectly.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(d)(2) Identify Identify proposed new or expanded organic waste recycling facilities that will be used to process the organic waste identified pursuant to subsection (a)(3).</p>	Thank you for the comment. CalRecycle corrected the spelling.

Comment Number	Received From	Question/Comment	Response(s)
	Management Committee/ Integrated Waste Management Task Force comments		
3229	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18992.1. Organic Waste Recycling Capacity Planning For capacity planning purposes, the regulations include “digestate and biosolids” within the organic waste material types. In the latest version of CalRecycle’s Characterization of Solid Waste in California report, these two materials are not included in the report. Since the regulations lists the waste characterization study as a means to estimate the countywide disposal, will CalRecycle provide counties with the disposal composition of these materials to assist in the capacity planning analysis? We recommend that CalRecycle provide counties with the statewide disposal composition of digestate and biosolids before the first capacity plan is due to CalRecycle on February 1, 2022.	CalRecycle has revised Section 18992.1(f) in response to this comment. The change adds another information source that can be used for this requirement. The change is necessary because statewide or local characterization studies typically do not characterize digestate/biosolid, as they are not a part of the commercial and residential waste stream. 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/biosolids. This data would be used in addition to either statewide or local characterization studies. The RDRS 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 onsite). Since this data will include large generators, CalRecycle will include this data in the capacity planning tool.
3230	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18992.2. Organic Edible Food Recovery Capacity Counties are required to “Estimate the amount of edible food that will be disposed of by commercial edible food generators . . .”. Currently, there are no tools to quantify the amount of edible food in the disposal stream. Therefore, we recommend that CalRecycle provide Counties with a methodology to estimate the amount of edible food within the disposal stream.	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
3231	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18992.2. Organic Edible Food Recovery Capacity It should be recognized the local task force created pursuant to Section 40950 of the Public Resource Code can be an asset to the county and the cities within the county in data collection and planning efforts listed in Section 18992.2 (a). In addition, the regulations should include a requirement on cities, regional agencies and edible food recovery organizations to respond to and provide the requested capacity data/information to Counties or other applicable jurisdictions for edible food capacity planning purposes. Additionally, in Section 18992.2(a)(3), counties are required to “Identify proposed new or expanded edible food recovery organizations”. Additionally, in Section 18992.2(b)(2), jurisdictions are required to “Consult with edible food recovery organizations. . . regarding existing, or proposed new and expanded capacity”. This appears to be a very repetitive requirement. We recommend that Counties be required to focus on existing edible food recovery capacity and cities (jurisdictions)	Regarding the comment that the regulations should include a requirement on cities, regional agencies, and edible food recovery organizations to respond to and provide the requested capacity data and information to counties or other applicable jurisdictions for edible food recovery capacity planning purposes. CalRecycle agrees with this comment and added language to the regulatory text specifying that if a jurisdiction or regional agency fails to provide the county with the information necessary to comply with the Article within 120 days, then the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3. If a jurisdiction fails to comply with their requirements under Article 11, then the jurisdiction could be subject to enforcement action. With regard to the commenter's suggested changes to the edible food recovery capacity planning requirements, a change to the regulatory text was not necessary. A change to the regulatory text was not necessary because in order for a jurisdiction to be able to implement an effective edible food recovery program it is critical that they are familiar with the food recovery organizations and services that operate in their jurisdiction and identify proposed new or expanded edible food

Comment Number	Received From	Question/Comment	Response(s)
		<p>be required to focus on the new or expanded edible food recovery capacity. Proposed Regulatory Text and Recommended Changes/Revisions: (a) Counties in coordination with cities, and regional agencies located within the county, and the local task force created pursuant to Section 40950 of the PRC shall: (1) Estimate the amount of edible food that will be disposed of by commercial edible food generators that are located within the county and jurisdictions within the county. (2) Identify existing capacity at edible food recovery organizations that is available to commercial edible food generators located within the county and jurisdictions within the county. (3) Identify proposed new or expanded edible food recovery organizations that will be used to process edible food identified pursuant to subsection (1). (4)(3) Identify the amount of capacity at edible food recovery organizations that is necessary to recover 20 percent of the edible food that is estimated to be disposed. (b) A city or regional agency contacted by a county pursuant to subdivision (a) shall 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. (c) Food recovery organizations contacted by a jurisdiction shall respond to the jurisdiction regarding potential new or expanded food recovery capacity at their facilities, operations, and activities. (b) (d) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction(s) within that county that lacks capacity shall.</p>	<p>recovery organizations and food recovery services in case the demand for recoveries grows in their area. Even if the demand did not increase, this is still very important information to identify especially if a major food recovery organization or service stops operating in the jurisdiction. Each requirement in Section 18992.2 is critical to ensure that edible food recovery capacity is expanded, and that jurisdiction edible food recovery programs are successful. Each requirement in Section 18992.2 is in place to help ensure effective capacity planning measures are taken, which will ultimately serve to help keep edible food out of landfills, and be redirected to help feed people in need.</p>
3232	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.2. Organic Edible Food Recovery Capacity The Task Force recommends that this section be expanded to add a subsection including appropriate provisions for compliance by non-local entities and local education agencies a consistent with requirements of this Article 11.</p>	<p>Counties and jurisdictions are not required to consult with local education agencies under Article 11. It is unclear why compliance would be required. To clarify, local education agencies are commercial edible food generators. Commercial edible food generators do not have capacity planning requirements.</p>
3233	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste	<p>For the purpose of this Article, the discussions and requirements need to be expanded to include appropriate provisions for compliance by non-local entities and local education agencies consistent with requirements of this article.</p>	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Management Committee/ Integrated Waste Management Task Force comments		<p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
3234	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>While the Task Force recognizes the need and importance of market development, such efforts must be mandated by legislative authority with associated funding to assist local jurisdictions. The Task Force recommends that the requirement for local jurisdictions to procure recovered organic waste products be eliminated from the regulations, since this requirement is not supported by legislative authority.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Regarding authority, See response to General Comment 24, above. Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses. Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
3235	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/	Section 18993.1. Recovered Organic Waste Product Procurement Target In addition to compost and renewable transportation fuel, CalRecycle should add electricity generated from recycled organic waste to the list of recycled organic waste products that may be procured to meet the recovered organic waste procurement target. In-vessel digestion and biomass conversion are activities deemed to constitute a reduction in landfill disposal per Section 18983.1(b) (3) and (4) of the proposed regulations, respectively. In-vessel digestion produces biogas and biomass conversion produces syngas, both of which can be used to produce renewable natural gas (RNG) and electricity, as well as transportation fuel.	<p>"The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments	<p>CalRecycle should be promoting, rather than limiting, the use of the recycled organic waste products that may be procured to provide jurisdictions flexibility and a variety of options to meet the procurement target. Producing compost in densely-populated urban and suburban jurisdictions can be challenging due to odors, space constraints, and permitting issues. The stringent requirements for pipeline injection of RNG transportation fuel in the state will make it extremely challenging for jurisdictions to procure RNG transportation fuel from remote production facilities and will require each jurisdiction to develop several of its own RNG production and on-site fueling facilities.</p> <p>CalRecycle needs to be a tool rather than an obstacle in promoting development of facility using emerging technologies (such as low- and mid- temperate thermal conversion technologies) to develop products in assisting the reduction of organic waste landfill disposal.</p>	<p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards."</p>
3236	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target Should CalRecycle pursue any mandatory procurement requirements, then CalRecycle should phase in such requirements since the availability of these products may be limited in the first few years of program implementation and jurisdictions should not be penalized if they are unable to procure the required amounts of these products.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(f) For the purposes of this article, the recycled organic waste products that must may be procured are:</p> <p>(1) Compost. (2) Renewable transportation fuel (3) Electricity (4) Renewable natural gas (5) Any other recycled organic waste products approved by the Department</p> <p>(g) The following conversion factors shall be used to convert tonnage in the annual recycled organic waste product procurement target for each jurisdiction to equivalent volumes of recycled organic waste products:</p> <p>(1) One ton of organic waste in a recycled organic waste product procurement target shall constitute:</p> <p>(A) 19 diesel gallon equivalents, or “DGE,” of renewable transportation fuel</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(B) 0.58 tons of compost. (C) XX kilowatts of renewable electricity (D) XX cubic feet of renewable natural gas</p>	<p>mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle disagrees with adding an option for approval of "any other recycled organic waste products" for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
3237	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	For the purpose of this Article, include a section to stipulate appropriate provisions for compliance by non-local entities and local education agencies consistent with requirements of this article.	A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.
3238	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18994.2. Jurisdiction Annual Reporting</p> <p>The Task Force recommends that CalRecycle clarify that the jurisdictions' reporting requirements under this Article 13 exclude non-local entities and local education agencies not receiving services through local jurisdictions' collection systems.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Each jurisdiction shall report the following, relative to its implementation of the organic waste collection requirements of Article 3 of this chapter:</p> <p>(1) The type of organic waste collection service(s) provided by the jurisdiction to its generators with the exception of non-local entities and local education agencies.</p> <p>(2) The total number of generators that receive each type of organic waste collection service provided by the jurisdiction with the exception of non-local entities and local education agencies.</p>	If generators are not receiving collection services through the jurisdiction, the existing wording of the reporting requirements makes clear that the jurisdiction does not need to report regarding those generators.
3239	DeChellis. P., City of La Canada Flintridge -- refers to attached Los	Section 18994.2. Jurisdiction Annual Reporting Requiring a jurisdiction to be responsible for all tracking and reporting of self-haulers and non-exclusive franchise haulers as stipulates in subsections (d) and (f) requires strict regulation, inspection and enforcement activities by the jurisdiction	CalRecycle has revised Section 18988.3 in response to this comment. The change omits the requirement for a self-hauler to annually report the amount and location/address of source separated organic waste in tons that was self-hauled in the jurisdiction. In respect to Section 18994.1, the reporting requirement for the tons of organic waste that were disposed as a result of

Comment Number	Received From	Question/Comment	Response(s)
	Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>while placing significant activities on small businesses like landscapers, small community composter, etc. To reduce the impact of this costly and time-consuming requirement, the proposal should allow the information collected from affected self-haulers pursuant to AB 901, Chapter 746 of the 2015 State Statutes.</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(d) Each jurisdiction shall report the following relative to its implementation of waivers pursuant to Article 3.</p> <p>(1) The number of days an emergency circumstances waiver as allowed in 18984.13 was in effect and the type of waiver issued.</p> <p>(2) The tons of organic waste that were disposed as a result of waivers identified in (1).</p> <p>(3) The number of generators issued a de-minimis waiver.</p> <p>(4) The number of generators issued a physical space waiver.</p> <p>(5) A jurisdiction that receives a waiver from the Department pursuant to Section 18984.12 of Article 3 shall report the following information for each year the waiver is in effect:</p> <p>(A) The number of generators waived from the requirement to subscribe to an organic waste collection service.</p> <p>(6) In lieu of the above, the jurisdiction and self-haulers can utilize the data collected pursuant to AB 901, Chapter 746 of the State Statute of 2015.</p> <p>(f) A jurisdiction shall report the following regarding its implementation of the hauler oversight requirements of Article 7.</p> <p>(1) The number of haulers approved to collect organic waste in the jurisdiction.</p> <p>(2) The Recycling and Disposal Reporting System number of each facility that is receiving organic waste from haulers approved by the jurisdiction.</p> <p>(3) The number of haulers that have had their approval revoked or denied.</p> <p>(4) The number of self-haulers approved to operate within the jurisdiction.</p> <p>(5) The total amount, in tons, of source separated organic waste that was self-hauled by organic waste generators and reported to the jurisdiction pursuant to Section 18988.3.</p> <p>(6) In lieu of the above, the jurisdiction and self-haulers can utilize the data collected pursuant to AB 901, Chapter 746 of the State Statute of 2015.</p>	<p>waivers identified in Subsection (1), the data collected in regard to AB 901 in the Recycling and Disposal Reporting System (RDRS) does not track the amount of organic waste disposed. If it is considered solid waste, the regulations do not require solid waste disposed to be divided between “trash” and “green material,” so obtaining this information from RDRS is not possible.</p>
3240	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/	<p>For the purpose of this Article, include a section to stipulate appropriate provisions and identify/specify the entity that would be responsible to measure compliance {i.e. conduct inspection(s), take enforcement action(s), recordkeeping, and possible imposition of penalties} of non-local entities, including federal agencies/facilities) and local education agencies} with appropriate requirements of this Article.</p>	<p>Comment noted. The Department has enforcement authority over these entities as described in Sections 18996.5, 18996.6, 18996.7.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments		
3241	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18995.1. Jurisdiction Inspection and Enforcement Requirements</p> <p>There is concern with maintaining confidentiality of some information in that in order to comply with the regulations, the jurisdiction would need to provide its customer lists to CalRecycle.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(c) A jurisdiction shall generate a written report for each inspection, route review, and compliance review conducted pursuant to this Chapter. Each report shall include, at a minimum, the following information, unless such information is restricted by a confidentiality agreement or considered proprietary information:</p> <p>(1) Identifying information for the subject or subjects of the inspection, route review or compliance review, such as, but not limited to:</p> <p>(A) The name or account name of each person or entity.</p> <p>(A B) A general description of the route and addresses location covered by a route review.</p> <p>(B C) A general description of the list of accounts reviewed for each compliance review.</p> <p>(C) A list of accounts, including addresses along with names of the account holders, determined by the jurisdiction to be subject to enforcement actions.</p>	<p>CalRecycle changed the requirement for a “written report” to a “written record” in 18995.1(c) to make clear that information gathered during inspections such as route reviews and compliance reviews is not required to be disclosed in a public report. These are written records that are to be maintained in the files of the local jurisdiction. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction. The proposed regulations were amended to provide for this.</p>
3242	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.2. Department Enforcement Actions Over Jurisdictions</p> <p>Pursuant § 42653 of the PRC, CalRecycle and CARB (not local jurisdictions) are responsible for identifying the barriers to organic waste recycling, the status of new organics recycling infrastructure development, the commitment of state funding to support infrastructure expansion, the progress in reducing regulatory barriers to the siting of organics recycling facilities, the timing and effectiveness of policies that will facilitate the permitting of organics recycling infrastructure, and the status of markets for the products generated by organics recycling facilities. Therefore, the Task Force recommends that the regulatory language include allowances for jurisdictions and other entities that demonstrate a substantial effort to comply with the regulations but are unable to do so due to factors outside of their control. Furthermore, the Task Force recommends that CalRecycle revise the regulations to incorporate provisions for jurisdictions demonstrating a “good faith effort” to comply. Public Resources Code § 42652.5 (4) states, “The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (See General Comment A.2.b).</p> <p>• Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) If the Department finds that a jurisdiction is violating one or more of the requirements of this Chapter, and has not made a good faith effort to fulfill these requirements, then the Department may take the following actions:</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1) Hold a public hearing, which, to the extent possible, shall be held in the local or regional agency's jurisdiction, to determine whether or not the jurisdiction has failed to make a good faith effort towards compliance.</p> <p>(1) (2) Issue a Notice of Violation requiring compliance within 90 days. An extension may be granted for an additional 90 days, if the jurisdiction submits a written request to the Department within 60 days of the Notice of Violation's issuance that includes:</p> <p>(A) Evidence that additional time is needed to comply.</p> <p>(B) The steps the jurisdiction will take to correct the violation, including demonstration that it can comply within 180 days of the Notice of Violation's issuance date.</p> <p>(2) (3) The Department may extend the timeframe for a jurisdiction to comply beyond 180 days from the Notice of Violation issuance date by issuing a Corrective Action Plan (CAP) for up to 24 months, setting forth steps to achieve compliance, if the jurisdiction has demonstrated, that it has made a substantial good faith effort to comply and there are extenuating circumstances that have prevented it from complying.</p> <p>(A) A jurisdiction shall submit a written request for the extension at least 30 days prior to the Notice of Violation final compliance date. The request shall provide documentation demonstrating its substantial good faith effort to comply, and the extenuating circumstances which prevents it from complying, and identify the critical milestones that the jurisdiction would need to meet in order to comply within 24 months. 1. If a jurisdiction claims that the cause of the delay is inadequate capacity of organic waste recovery facilities, it shall document the lack of capacity and demonstrate that it has provided service where possible and that it has only delayed compliance with this chapter for areas where service cannot be provided due to capacity limits. Implementation schedules, under Article 11, may be considered for purposes of developing a Corrective Action Plan; however, the Department may set compliance milestones other than those provided in the Implementation Schedule.</p> <p>(B) For the purposes of this section, "substantial good faith effort" means that a jurisdiction has taken all practicable actions to comply. Substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply with the Chapter, including, but not limited to, a failure to provide staff resources, a failure to provide sufficient funding to assure compliance, or failure to adopt required ordinances.</p> <p>(C) For the purposes of this section, "extenuating circumstances" means that a delay in compliance has been caused by:</p> <p>1. Circumstances outside of a jurisdiction's control; including acts of God and declared emergencies such as earthquake, fires, flooding, or delays in obtaining discretionary permits or other government agency approvals, or failure of non-local</p>	

Comment Number	Received From	Question/Comment	Response(s)
		<p>entities or local education agencies, located within the jurisdiction, to fully comply with requirements of this chapter.</p> <p>2. A long term infrastructure or capacity change which requires a corresponding longer length of time to achieve compliance.</p> <p>3. lack of adequate markets for the products produced from organic waste recycling activities.</p> <p>(D) For the purposes of this section, "critical milestones" means all actions necessary for a jurisdiction to comply, including, but not limited to, receiving approval by decision-making bodies, permit application submittals and obtaining approvals, and tasks associated with the local contract approvals. (3 4) A Corrective Action Plan shall be issued by the Department for no longer than 24 months and shall include compliance dates for each milestone that describe the tasks and timeframe the jurisdiction needs to take to achieve full compliance by a final compliance date. The Corrective Action Plan shall include the penalties that may be imposed if a jurisdiction fails to comply by the final compliance date and may also include penalties for failing to meet milestones by the specified dates.</p> <p>(b) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to fulfill its responsibilities or obligations as required by this Chapter, but is unable to fulfill those responsibilities or obligations due to factors outside of its control then the Department may consider a hardship allowance for said jurisdiction.</p>	
3243	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.3. Department Enforcement When Jurisdiction Fails to Enforce -- See previous comment Section 18996.2.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) If a jurisdiction fails to enforce the requirements set forth in this chapter, and has not made a good faith effort to do so, the Department may take enforcement action against an entity pursuant to Section 18996.9 of this chapter and also enforcement action against the jurisdiction pursuant to this article after providing the jurisdiction with:</p> <p>(1) Written documentation of its lack of appropriate enforcement action.</p> <p>(2) A request to hold a public hearing, which, to the extent possible, shall be held in the local or regional agency's jurisdiction, to determine whether or not the jurisdiction has failed to make a good faith effort towards compliance.</p> <p>(2) (3) A written request to take enforcement action against the entity pursuant to Article 14 of this chapter or evidence within 60 days that the entity is in compliance.</p> <p>(b) If the Department determines a good faith effort has not been made, the Department may seek administrative penalties against the jurisdiction pursuant to Article 16 if the jurisdiction fails to take enforcement action as requested pursuant to subsection (a) (2).</p> <p>(c) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to enforce the requirements set forth in this chapter but is unable to</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>fulfill those responsibilities or obligations due to factors outside of its control then the Department may consider a hardship allowance for said jurisdiction.</p>	
3244	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.6. Department Inspections and Compliance Review of State Agencies and Facilities See General Comment A.1.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) If the Department finds that a state agency is violating Article 4, 5, 7, 8, 10, 11, 12, or Article 13 of this chapter, then the Department may take the following progressive enforcement actions:</p> <p>(1) Issue a Notice of Violation requiring compliance within 90 days. If the state agency or state facility provides sufficient evidence that additional time is needed to comply, it may request, and the Department may grant an additional 180-day extension. The state agency or state facility extension request shall include:</p> <p>(A) An explanation of why the violations have occurred, and all steps that have been taken to comply with this chapter. (B) An explanation as to why it cannot correct the violation by the compliance date.</p> <p>(C) A proposed set of tasks and milestones necessary for the state agency or state facility to comply and an explanation and justification of the proposed timeline.</p> <p>(D) Any additional information that supports the request to delay enforcement action.</p> <p>(2) If the department issues a Notice of to a state agency or facility it shall include, but is not be limited to:</p> <p>(A) A description of the violation and regulatory section that is the basis of the violation.</p> <p>(B) Identification of the actions the state agency or state facility shall take to correct the violation(s).</p> <p>(C) The timeframe in which each of the actions must be taken.</p> <p>(D) The actions in subsection (a)(3) of this section that the Department may take if the state agency or facility fails to comply</p> <p>(3) If a state agency or state facility fails to comply with a Notice of Violation, the Department may take the following enforcement actions:</p> <p>(A) List the state agency or state facility on the Organic Waste Recovery Noncompliance Inventory described in Section 18997.4 of this chapter.</p> <p>(B) Request that the Department of General Services (DGS) conduct an audit of the state agency or state facility for compliance with Public Contract Code (PCC) Section 12217(a).</p> <p>(C) Notify the Governor.</p> <p>(D) Notify the Legislature.</p> <p>(E) Unless prohibited by State law, following the Legislature notification, the Department may impose administrative civil penalties on a state agency or state facility found in violation of Articles 4, 5, 7, 8, 10, 11, 12 or 13. The penalty amount shall be equivalent to those listed in Article 16 for a similar entity.</p>	<p>A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(4) The Department may not extend a compliance deadline in a Notice of Violation if the Department determines that the state agency or state facility has not made substantial efforts to comply with this chapter.</p> <p>(A) For the purposes of this section, "substantial effort" means that the state agency or state facility has taken all practicable steps to comply. Substantial effort does not include failure by the state agency or facility to take the necessary steps to comply, including, but not limited to, not providing adequate staff resources, failing to provide sufficient funding to assure compliance with the Chapter, or failure to adopt required policies</p>	
3245	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.7. Department Enforcement Action Regarding Local Education Agencies See General Comment A.1.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) If the Department finds that a local education agency is violating this chapter, the Department may issue a Notice of Violation requiring compliance within 90 days. If the local education agency fails to comply with the Notice of Violation, the Department may list the local education agency or a non-local entity on the Organic Waste Recovery Noncompliance Inventory pursuant to Section 18997.4.</p> <p>(b) Unless prohibited by State law, following the Legislature notification, the Department may impose administrative civil penalties on a local educating Agency found in violation of this chapter. The penalty amount shall be equivalent to those listed in Article 16 for a similar entity.</p>	CalRecycle made a policy determination during this rulemaking to not impose penalties on local education agencies out of concern regarding limited funding for local education.
3246	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.9. Department Enforcement Actions Against Entities See comment on 65 on Section 18996.2., and define the term "entity".</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) The Department may take enforcement action against organic waste generators, including commercial edible food generators, haulers, and food recovery organizations and services, where a jurisdiction has failed to enforce this chapter and has not made a good faith effort to do so or where the entity is a non-local entity that is not a state agency or facility subject to enforcement under Section 18996.6 or a local education agency subject to enforcement under Section 18996.7.</p> <p>(b) If an entity has been found in violation, the Department shall:</p> <p>(1) For a first violation:</p> <p>(A) Hold a public hearing, which, to the extent possible, shall be held in the entity's jurisdiction, to determine whether or not the entity has failed to make a good faith effort towards compliance. If the Department determines that a good faith effort has not been made, the Department shall issue issue a Notice of Violation (NOV) requiring compliance within 60 days.</p> <p>(B) If the violation continues after the NOV compliance date, the Department shall issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p>	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction

Comment Number	Received From	Question/Comment	Response(s)
		<p>(C) If the violation continues after the NOTC compliance deadline of 30 days, the Department shall commence action to impose a penalty on the entity no later than 90 days after the issuance of the NOTC.</p> <p>(2) For a second violation and all subsequent violations:</p> <p>(A) Issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p> <p>(B) If the violation continues after the NOTC compliance deadline, the Department shall commence action to impose a penalty on the entity no later than 90 days after its determination of the violation.</p> <p>(c) The Department may grant extensions to the compliance deadlines set forth in subsection (b) if it makes the following findings:</p> <p>(1) The entity is making timely progress toward compliance, and</p> <p>(2) The entity's failure to comply within the deadline is due to:</p> <p>(A) Extenuating circumstances outside its control, including a correction to a long term infrastructure or capacity change which requires a correspondingly longer length of time to achieve compliance. Examples of extenuating circumstances include acts of God such as inclement weather, and earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters, and delays in obtaining discretionary permits or other government agency approvals, but where the entity's actions or failure to act was not the cause of the delay</p> <p>(B) Limitations in infrastructure and the jurisdiction in which it is located is under a Corrective Action Plan (CAP) pursuant to Section 15.2 due to long term infrastructure or capacity deficiencies.</p> <p>(d) The Department shall provide the following information in any Notice of Violation or other enforcement notices:</p> <p>(1) The account name, name, or names of each person or entity to whom it is directed. Notices must go to the legally responsible party, such as a business owner, service account holder, property owner, etc.</p> <p>(2) The list and description of the violations of this chapter, including the section of this chapter being violated.</p> <p>(3) A compliance date by which the entity is to take specified action(s).</p> <p>(4) The penalty for not complying within the specified compliance date</p> <p>(e) If an entity can demonstrate to the Department that it has made a good faith effort to comply with the requirements set forth in this chapter, but is unable to fulfill those responsibilities or obligations, due to factors outside of its control, then the Department may consider a hardship allowance for said entity.</p>	
3247	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County	<p>Article 16 needs to be expanded to provide and discuss in detail the following:</p> <p>(a) The process and the time frame that an affected organic waste generator and/or an entity could appeal the Department's decision regarding compliance with the requirements of this chapter and the agency that the appeal must be filed with.</p>	<p>To clarify, both local jurisdictions and CalRecycle have enforcement responsibilities under the proposed regulations. Procedures for CalRecycle's imposition of administrative civil penalties and related hearings are already included in Sections 18997.5 and 18997.6 of the proposed regulations. Administrative procedures for jurisdictional imposition of administrative civil</p>

Comment Number	Received From	Question/Comment	Response(s)
	Solid Waste Management Committee/ Integrated Waste Management Task Force comments	(b) What are the allowable uses of revenue generated from the collected penalties and the agency with the decision-making authority for its use?	penalties are committed to local discretion and control as informed by due process and other applicable requirements, such as Government Code Section 53069.4. Regarding uses of penalty revenue, SB 1383 was silent on this issue. As such, use of local penalty revenue is left to applicable local requirements and discretion. Department penalty revenue is required to be deposited in the Integrated Waste Management Account pursuant to Public Resources Code Section 47901 and appropriated consistent with the requirements of Government Code Section 13332.18.
3248	DeChellis. P., City of La Canada Flintridge -- refers to attached Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18997.2. Penalty Amounts See General Comment A.2.a.</p> <p>The monetary penalties for Property and Business Owners should not be based on established penalty severity levels. The penalties should have a maximum limit so as not to disproportionately penalize certified small businesses, non-profit organizations, or other entities for whom the penalties may cause substantial hardship.</p> <p>The monetary penalties for residential organic waste generators should be given their own category in Table 1 separate from all other organic waste generators. The penalties for residential organic waste generators should not be based on established penalty severity levels. The penalties should have a maximum limit so as not to disproportionately penalize economically disadvantaged communities in the state.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section, except in cases where these penalties may cause substantial hardship to certified small businesses, non-profit organizations, economically disadvantaged communities, or other applicable entities, and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b).</p> <p>Table 1 can be viewed in the original comment letter.</p> <p>(b) Consistent with the requirements prescribed in Government Code Sections 53069, 25132 and 36900, the penalty severity levels are as follows:</p> <p>(1) For a violation classified as Level 1, the amount of the base penalty may be \$50–\$500 per violation.</p> <p>(2) For a violation classified as Level 2, the amount of the base penalty may be \$250–\$1000 per violation.</p> <p>(3) For a violation classified as Level 3, the amount of the base penalty may be \$500–\$2,500 per violation.</p> <p>(c) For the purposes of subsection (a), revoking, suspending, or denying a permit, registration, license, or other authorization shall be considered stricter than the penalties in this section.</p>	A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(d) For a violation classified as Level 0, certified small businesses, non-profit organizations, residents of economically disadvantaged communities, and other applicable organic waste generators may submit an application to the Department or to the jurisdiction imposing penalties requesting the penalties to be waived due to substantial economic hardship.</p> <p>Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939]), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.</p>	
5030	DeLange, V, Delta Diablo	<p>Issue No. 1 – Green Container versus Gray Container Compliance Metrics</p> <p>The proposed regulations include very prescriptive and quantitative requirements for calculating performance and organics recovery rates for gray container waste that is sent to high diversion organic waste processing facilities (Article 6.2, Sections 17409.5.1 – 17409.5.3). However, there are no similar quantitative requirements for organic waste collected in green containers under the three-container and two-container options. This discrepancy may have the unintended consequence of favoring the multi-container options because of the lower threshold for measuring compliance. Implementing similar requirements for the green container option would allow CalRecycle to ensure strong implementation and capture/diversion of organics regardless of the collection method, while providing the metrics to evaluate the performance of the different collection methods.</p> <p>In order to reach the state-mandated 50 percent and 75 percent diversion goals, CalRecycle should support all collection methods (e.g., green container, gray container) and processing options (e.g., composting, dry digestion, and co-digestion at wastewater treatment plants). Wastewater treatment plants can play an important role in organics diversion through the utilization of existing infrastructure in the form of anaerobic digesters to co-digest food waste and other organic waste with the added benefit of producing renewable energy. However, anaerobic digesters need a specific type of organics feedstock and typically avoid organics that are mixed with green waste. The unintended consequence of not including quantitative requirements for green container systems may limit the ability of wastewater treatment plants to support organics diversion.</p>	<p>Section 18984.5 already requires all types of containers to be monitored. Instead of setting a performance standard on green containers, CalRecycle established container monitoring requirements and facility checking/monitoring. However organic waste recovery efficiency will be measured at facilities receiving source separated organic waste.</p>

Comment Number	Received From	Question/Comment	Response(s)
5031	DeLange, V, Delta Diablo	<p>Issue No. 2 – Eligible Recovered Organic Waste Products</p> <p>The District supports inclusion of language in the proposed regulations that supports development of markets for the products of digestion, including both biosolids and biogas (Article 12, Section 18993.1). However, the proposed regulations limit the eligible products for the procurement requirement to only compost and renewable transportation fuel. While the District strongly supports these end uses for organic waste, the eligible products should be expanded to include renewable electricity and pipeline injection. Because each jurisdiction and potential projects are unique, CalRecycle should include language that supports multiple pathways to support organics diversion. The District has been working with MDRR and Anaergia for over two years on ECBP development and the importance of biogas utilization options and off-take agreements are vital to its financial viability.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6168	Dingman, D., Contra Costa County	<p>§ 18981.2(a): The regulations exceed the scope of CalRecycle’s rulemaking authority under Public Resources Code section 42652.5 by mandating local jurisdictions to adopt ordinances that require compliance with the regulations. Under their Constitutional police power, counties have discretion to adopt ordinances not in conflict with general laws. Public Resources Code section 42652.5 does not purport to force a county to adopt an ordinance to mandate</p>	<p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.” The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight. The Legislature set ambitious organic waste diversion mandates on a short</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>compliance with these regulations, and CalRecycle has not identified any legal authority for the proposition that a county’s discretion under its Constitutional police power may be constrained by a state administrative agency through adoption of a regulation. Additionally, such a sweeping mandate is not reasonably necessary to effectuate the purpose of Section 42652.5, because CalRecycle may enforce its own regulations. (See Gov. Code, § 11342.2.)</p>	<p>timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to ‘fill up the details’ of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste. Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, "A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section."</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance."</p> <p>Regarding the language "authorizing" penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements "and impose penalties for noncompliance." Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p>
6169	Dingman, D., Contra Costa County	§ 18981.2(a): It is not reasonable to impose a mandate that jurisdictions adopt ordinances no later than January 1, 2022, when, pursuant to Public Resources Code section 42652.5(a)(6), the mandate itself will not be effective until the regulations take effect on January 1, 2022 or later.	<p>SB 1383 mandates that these regulations go into effect on January 1, 2022 per the language of the enabling statute. It is clear the Legislature intended for the requirements to be enforceable at that time. The timing for adoption of local ordinances reflects this.</p> <p>The requirement in the proposed regulations for jurisdictions to have enforceable mechanisms consistent with the requirements of the SB 1383 regulations is not enforceable until January 1, 2022. Therefore, this requirement is not in effect until then.</p>

Comment Number	Received From	Question/Comment	Response(s)
6170	Dingman, D., Contra Costa County	<p>§ 18984.1: Textiles and carpet are organic according to the proposed Regulations. Subsection (a) states these can go into the green or blue containers, however this is not the case in our County so if placed in either of these carts material would be considered, treated and disposed of as contamination. Language in subsection (b) allowing textiles to be placed in the grey “nonorganic waste only” container needs to be expanded to include other organic waste that is not accepted in the green carts based on local operator/facility standards. Local organics processing facilities do not accept all organic waste as proposed to be defined in these regulations, therefore as written Regulations currently require generators to place all organic waste in their organics container which would in effect mandate countless generators to contaminate their green organics containers.</p>	<p>The regulations already allow organics to be placed into the gray container under specified conditions.</p>
6171	Dingman, D., Contra Costa County	<p>§ 18984.1(a)(3): The regulations exceed the scope of CalRecycle’s rulemaking authority by mandating replacement of trash containers if not grey or black in color. The enabling statute applies to organics collection which the Regulations require be provided using a green container. Aside from the lack of statutory authority to impose trash container color requirements, there is minimal benefit that might be achieved by standardizing the color of trash receptacles (unlike standardizing colors for containers intended to hold source-separated organics and recycling which require greater care to avoid contamination). There is simply no adequate justification for such a waste-generating mandate considering standardizing trash containers will literally require disposal of at least tens of thousands of carts before the end of their useful life. Trash containers should be allowed to be any color other than green or blue, so that the thousands of brown or burgundy containers currently used for either trash or recycling in certain jurisdictions can all be used for trash eliminating the need to replace tens if not hundreds of thousands of containers statewide.</p>	<p>The regulations provide a broad grant of rulemaking authority to place requirements on jurisdictions to achieve the goals in statute. CalRecycle determined standardized container colors are necessary to encourage proper solid waste separation on a statewide basis to reduce container contamination and encourage diversion. CalRecycle delayed dates to replace existing containers to allow jurisdictions time to comply.</p>
6172	Dingman, D., Contra Costa County	<p>§ 18984.1 (a)(5)(A): Local organics processing facilities do not accept all organic waste as proposed to be defined in these regulations, This wording should be revised to identify which organic wastes are acceptable in the green organics container, acknowledging that the types allowed vary based on local operator/facility standards and permits. Either wording needs to be added or refer to a different section if adequate wording is already elsewhere, because as written wording requires generators to place all organic waste in their organics container, including types local operator considers contaminants that are not accepted for composting/recovery at local facilities (such as palm fronds, ivy, pet waste, etc.)</p>	<p>If the Local Enforcement Agency determines that a material type cannot be safely recycled, then a jurisdiction would be allowed to list that material as not acceptable. Additionally, during the informal workshops many other stakeholders stated that they have programs for these material types. Further human and pet waste are not required to be measured as organic waste for the purpose of measuring contamination in 18984.5. With respect to human and pet waste, a jurisdiction may prohibit human waste in the green or blue container in a 3-container system and in the green container in a 2-container system. This change is necessary in order to support jurisdiction efforts to minimize public health impacts.</p> <p>This revision does not apply to pet waste, as many jurisdictions collect manure and take this material to processing facilities that have to meet pathogen reduction requirements. Regarding palm fronds and monocotyledons, while these materials have been difficult to handle at composting operations, at least one facility has opened in CA that can grind this material and use it in animal feed products, reportedly at a cost significantly less than that of landfilling. Allowing jurisdictions to prohibit this material from being placed in the green container would potentially deter the development of innovative technologies to deal with this material.</p>

Comment Number	Received From	Question/Comment	Response(s)
6173	Dingman, D., Contra Costa County	§ 18984.5: Responsibility to address contamination is most appropriately assigned to haulers and NOT “jurisdictions”. If contamination is proposed to be a violation, said violation must be verifiable and provable by the jurisdiction which is not the case with the proposed regs which provide said determination discretion to the haulers. Additionally, It should be the responsibility of the Hauler NOT the local public agency to reduce the presence of contaminants in organic waste containers that are collected from the territory that they serve, especially in the case where the hauler is owned by the same company as the local disposal facilities and/or organic facilities used to manage the waste/material collected by said hauler in that agencies service area. The local public agency should only be required to become involved if/when the hauler fails to comply.	A change in the regulatory text is not necessary. A basic tenet of the regulations is that jurisdictions are responsible for addressing contamination. The model of delegated oversight enforcement authority is common among environmental regulations and enforcement programs. This is necessary to extend implementation and oversight of environmental regulations embodied in this chapter to the local level where compliance can be monitored by local staff more familiar with unique local circumstances. 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. Even so, under Section 18981.2, a jurisdiction may designate a hauler to fulfill its responsibilities through its franchise or other agreement, but the jurisdiction is ultimately responsible for ensuring that the requirements are met.
6174	Dingman, D., Contra Costa County	§ 18984.5(b)(2): The regulations exceed the scope of CalRecycle’s rulemaking authority by authorizing a solid waste hauler to dispose of collected source separated organic waste notwithstanding its contractual obligation to a local jurisdictions to do so. These provisions are inconsistent with the powers granted by the Legislature to general law counties under Government Code section 23000 to make and enforce the terms of contracts, including solid waste franchises.	This provision does not authorize a solid waste hauler to dispose of the contents, it requires that the jurisdiction perform this task. However, the jurisdiction may delegate that task to the hauler. If so, there is no inconsistency with the powers of local governments regarding solid waste franchises because the hauler is acting under the jurisdiction’s authority. To the extent a jurisdiction wants its hauler to somehow separate out the garbage from the source separated recyclables commingled in a bin – nothing in the regulations would prohibit a jurisdiction from including something about that in its contract.
6175	Dingman, D., Contra Costa County	§ 18984.8: In many cases, existing contractual arrangements are clear about the containers being property belonging to the franchise hauler. Most likely jurisdictions do not even have access to the supply in inventory, let alone know where they all are currently deployed/located, CalRecycle has no authority to require that jurisdictions physically alter property owned by another party, therefore this requirement should be imposed directly upon the entity who owns the containers, which will most often be the franchise hauler. In Contra Costa County, responsibility to place and maintain labels is most appropriately assigned to our haulers since they service and maintain containers. At the very minimum, the following language should be added to this Section: “Consistent with Section 18981.2,	It is the jurisdiction’s responsibility to ensure that its franchise agreement provisions coincide with the regulatory requirements upon the jurisdictions. Most franchise agreements contain provisions that allow for renegotiation of the terms pursuant to a change in the applicable law. The regulations do not go into effect until 2022 which gives both the jurisdictions and the haulers ample time to make the necessary arrangements. Insofar as the bin requirements are concerned, the regulations allow use of the containers until the end of their useful life before replacement. All containers must comply by 2036 which is 14 years from the effective date of the regulations.
6176	Dingman, D., Contra Costa County	§ 18984.9(b)(1): It is not advisable to specify businesses provide organic waste and nonorganic recyclables at all disposal containers. Limitations may in effect prevent businesses from complying, plus publically available containers can pose significant contamination problems. Businesses cannot prohibit customers from contaminating containers. This section should be rewritten as, “...in all areas where disposal containers are provided for customers employees, except for restrooms.”	Section 18984.9 establishes that commercial businesses must locate organic waste and recycling containers near disposal containers that customers can access at that business. It also establishes that containers provided by the commercial business conform to the containers used throughout the jurisdiction’s organic waste recovery service, as a method to further reduce customer confusion and limit contamination of collection containers. 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 of organic waste. As 40 percent of organic waste is generated at commercial businesses, this section helps ensure that organic waste recovery options are available in nearly all places that commercial waste is generated. It is necessary to ensure the state is able to meet the organic waste recovery targets established in the statute. This section is also necessary to ensure generators have access to organic waste recovery options wherever they discard material, including in public locations. This helps educate consumers and underscores the importance of recovering organic waste in, and outside the home.

Comment Number	Received From	Question/Comment	Response(s)
6177	Dingman, D., Contra Costa County	§ 18984.10(c): CalRecycle has failed to cite any statutory or authority to require owners to authorize entry onto their property so in the absence of the legal authority to require them to do this it would be unreasonable to require local jurisdictions to take action against them for such.	This section, and Section 18984.10 is intended to function as guidance that CalRecycle will need access to perform its inspection duties and is intended to be subject to the Fourth Amendment to the U.S. Constitution.
6178	Dingman, D., Contra Costa County	§ 18985.1(b): The February 1, 2022 date should be changed to later in the year because many jurisdictions may only learn about one or two (if any) self-haulers in the first month after the Regulations take effect, so that would be too soon to conduct annual outreach to provide to self-haulers with information regarding the requirements of Section 18988.3.	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(c) to include all education requirements for single unsegregated collection systems.
6179	Dingman, D., Contra Costa County	§ 18988.3(b)(4): Self-haul is allowed by right and exempt from the County's requirements to operate under a franchise agreement or non-franchise hauler permit, therefore no County approval is required. We do not know who may be self-hauling at any given point in time, so we will slowly build a list of self-haulers as we learn about them (most likely identified on a case by case basis when following up with Generators not signed up for organics collection). In some cases we've learned that generators are getting paid for their organics by companies that pick it up and turn it into animal feed (consider that a product rather than waste).	Nothing in the regulation prohibits a business owner from self-hauling their organic waste. Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(c) to include all education requirements for single unsegregated collection systems. The regulations require self-haulers to keep a record but do not require self-haulers to report as it would be unnecessarily burdensome to require self-haulers to report. Language was ultimately changed to remove the annual reporting to jurisdictions for all self-haulers.
6180	Dingman, D., Contra Costa County	§ 18992.1(a) & 18992.2: The regulations exceed the scope of CalRecycle's rulemaking authority by imposing such burdensome requirements solely on counties necessitating that we gather information from nineteen cities, two regional agencies and four special districts every year in order to calculate capacity that is	SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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

Comment Number	Received From	Question/Comment	Response(s)
		<p>currently available/planned and future needs. This is more concerning because wording indicates the requirement pertains to the County “in coordination with city or regional agencies”, which is quite unclear as to whom is accountable for applicable non-compliance penalties shown in Base Table 6 in Article 16.</p>	<p>39730.6 of the Health and Safety Code.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Administrative Civil Penalty tables, including “Base Table 6,” were deleted from the proposed regulations</p>
6181	Dingman, D., Contra Costa County	<p>§ 18992.1(a)(2): A county may not have the ability to identify the organic waste recycling infrastructure capacity that is “verifiably available to the county and the jurisdictions located within the county.” To the extent that organic waste is imported into the county, the capacity used by such waste may not be available to organic waste generated within the county. While a county may be able to obtain a guarantee of access through a contract, permit, franchise or other documentation, such access would need to be negotiated, and there is no guarantee that the county would necessarily be successful in such a negotiation.</p>	<p>A county is not required to account for waste generated outside its boundaries. Counties are required to identify the amount of organic waste that will be generated within the county and identify locations that can recycle that material that are verifiably available to the county and its jurisdictions. The capacity does not have to be located within the county’s physical borders. It is true that one facility’s verifiably available capacity may be used by a jurisdiction located outside of the county. In this case the county and its jurisdiction may have to locate another facility or contemplate the development on new capacity so they can meet their obligation to demonstrate that they have verifiable access to organic waste recycling capacity. This is necessary to ensure the sufficient organic waste recycling capacity is available for the state to achieve and maintain the organic waste reduction targets of SB 1383.</p>
6182	Dingman, D., Contra Costa County	<p>§ 18992.1(a)(2): Furthermore, requiring jurisdictions to identify sufficient verifiably available capacity in order to avoid burdensome requirements will likely result in mismanagement and underutilization of facility capacity. As a result of guaranteeing local jurisdictions’ access to capacity, operators would potentially be limited from accepting organics imported from elsewhere which conflicts with Section 18990.1(b)(2) and potentially runs afoul of the commerce clause of the US Constitution.</p>	<p>18992.1(a)(1) is a planning requirement that requires jurisdictions to identify organic waste recycling capacity and doesn't require operators to do anything.</p>
6183	Dingman, D., Contra Costa County	<p>§ 18992.1(e): For the purposes of infrastructure capacity planning, organic waste should not include paper types that are recycled in blue containers or biosolids and digestate. There is no valid basis for combining biosolids, recyclable paper and other organic wastes into a single organic waste stream for the purpose of infrastructure capacity planning unless they are being comingled for processing at the same facility.</p>	<p>Section 18992.1(c)(2) specifies that POTWs must provide requested information within a specified timeframe.</p> <p>In addition, the comment states that “organic waste should not include paper types that are recycled in blue containers or biosolids and digestate. There is no valid basis for combining biosolids, recyclable paper and other organic wastes into a single organic waste stream for the purpose of infrastructure capacity planning unless they are being comingled for processing at the same facility.”</p> <p>The capacity planning requirements require that specific types of organic waste are included in capacity planning estimates. The regulations do not require that the jurisdictions combine, or only</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>plan for infrastructure that combines those materials for recycling. Capacity planning may require jurisdictions to identify various types of infrastructure capable of recovering different types of organic waste.</p> <p>The purpose of this section is to require counties, in coordination with cities 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 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 recovery organic waste. This will help increase organic waste recovery in California.</p>
6184	Dingman, D., Contra Costa County	<p>§ 18992.1(e):As a county, we have NO authority over the agencies that own and operate publically operated treatment works (POTWs). Agencies responsible for POTWs that generate biosolids have independent jurisdictional authority, therefore it is these agencies and not counties that must be held responsible for management of their biosolids as well as any infrastructure capacity planning requirements.</p>	<p>CalRecycle has revised Section 18992.1(f). The change adds another information source that can be used for this requirement. The change is necessary because statewide or local characterization studies typically do not characterize digestate/biosolid, as they are not a part of the commercial and residential waste stream. 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/biosolids. This data would be used in addition to either statewide or local characterization studies.</p> <p>The RDRS 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 onsite). Since this data will include large generators, CalRecycle will include this data in the capacity planning tool.</p>
6185	Dingman, D., Contra Costa County	<p>§ 18992.1(e):Biosolid processing capacity requirements and any associated reporting mandates must be separate from city/county organic waste infrastructure capacity planning requirements. Infrastructure capacity requirements applicable to biosolids and digestate must be imposed directly upon the POTW agencies and such agencies must be monitored by and accountable to CalRecycle and not counties due to their independent jurisdictional authority.</p>	<p>CalRecycle has revised Section 18992.1(f). The change adds another information source that can be used for this requirement. The change is necessary because statewide or local characterization studies typically do not characterize digestate/biosolid, as they are not a part of the commercial and residential waste stream. 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/biosolids. This data would be used in addition to either statewide or local characterization studies.</p> <p>The RDRS 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 onsite). Since this data will include large generators, CalRecycle will include this data in the capacity planning tool.</p>
6186	Dingman, D., Contra Costa County	<p>§ 18992.2(a)(a): Regulations need to specify method for jurisdictions to calculate estimated amount of edible food to be discarded by edible food generators within their jurisdiction.</p>	<p>CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. Please note that this requirement does not require estimates to be exact or absent of any error or</p>

Comment Number	Received From	Question/Comment	Response(s)
			uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
6187	Dingman, D., Contra Costa County	§ 18992.2 (a)(4): This is unenforceable until such time as there is baseline data identifying how much edible food was being disposed for the purpose of determining what amount constitutes 20%. Regulations need to specify how capacity is to be calculated similar to the organic waste processing capacity section, otherwise jurisdictions will not know how to properly estimate the amount of edible food disposed in order to determine if there is adequate capacity at edible food recovery organizations necessary to recover 20% of potential edible food to be disposed.	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
6188	Dingman, D., Contra Costa County	§ 18992.2(b): Regulations need to specify method for allocating edible food recovery capacity among local jurisdictions to manage edible food donated by generators in their respective jurisdictions. Food recovery programs do not allocate capacity to specific jurisdictions	With regard to the comment about "allocating" edible food recovery capacity and infrastructure, CalRecycle would like to clarify that there are requirements for counties in coordination with jurisdictions and regional agencies located within the county to complete capacity planning analyses and to increase capacity if sufficient capacity does not exist. Section 18991.1 (a)(4) includes the requirement that jurisdictions shall increase edible food recovery capacity if it is determined that sufficient capacity does not exist. Assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. It is at the discretion of the jurisdiction to determine what jurisdiction entity is best suited to assess edible food recovery capacity and ensure that compliance with this regulatory requirement becomes a part of their scope. CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of the edible food recovery capacity planning section.
6189	Dingman, D., Contra Costa County	§ 18993.1: The regulations exceed the scope of CalRecycle's applicable rulemaking authority by imposing significant procurement mandates on local jurisdictions. SB 1383 did not provide for establishing such requirements on local jurisdictions. Even if CalRecycle was granted that authority, it most certainly would be a mandate on local agencies which warrants state reimbursement. Due to limitations in the California Constitution, state statute, and case law, the County has no feasible means of lawfully establishing a service charge, fee or assessment that could be used to cover the costs of complying with the proposed procurement requirements (this is also true for requirements pertaining to Edible Food and Infrastructure Capacity).	SB 1383 provides a broad grant of rulemaking authority to place requirements on jurisdictions to achieve the goals of the statute. CalRecycle determined that procurement requirements were necessary to achieve the diversion targets in statute by ensuring end uses for processed organic waste. Moreover, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const.

Comment Number	Received From	Question/Comment	Response(s)
			<p>Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383. According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...” Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. [The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
6190	Dingman, D., Contra Costa County	<p>§ 18993.1: The population based Recovered Organic Waste Product Procurement Target for Contra Costa County for 2018 equates to 7,004 tons of compost or 229,442 gallons of fuel. The County does not maintain much park land or other property where compost could be used, so that is much more compost than the County could ever make use of in a year. Likewise, the County does not have the equipment/infrastructure needed to procure and utilize such a large quantity of specialized fuel annually.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility to choose product that fit local needs.</p>
6191	Dingman, D., Contra Costa County	<p>§ 18995.1: The date specified in subsection (a)(1) needs to be changed to later in the year. It is completely unreasonable to require jurisdictions to complete a compliance review of all garbage accounts (which may total hundreds if not thousands of accounts) a mere 30 days after these proposed Regulations may take effect. Likewise, it is inappropriate to require completion of route reviews in that same first 30 day period.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>

Comment Number	Received From	Question/Comment	Response(s)
6192	Dingman, D., Contra Costa County	<p>§ 18995.1(a)(1)(B)(5): The regulations exceed the scope of CalRecycle’s rulemaking authority under Public Resources Code section 42652.5 by requiring local jurisdictions to take specified enforcement actions in the event of each and every violation and subjecting them to penalties for failing to do so. There is no suggestion in Section 42652.5 that the Legislature intended to strip local jurisdictions of discretion in the enforcement of their ordinances, and no suggestion that the Legislature contemplated the imposition of such penalties on local jurisdictions.</p>	<p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.”</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to ‘fill up the details’ of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product aligns with policies and mandates for methane reduction as described in the Air Resources Board’s SLCP</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development. Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste. Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
6193	Dingman, D., Contra Costa County	<p>§ 18995.1(b): It is not reasonable to impose a requirement on local jurisdictions to “ensure” compliance with the regulations by conducting a “sufficient number” of compliance reviews, route reviews and inspections, as finding even one violation would mean that, despite its best efforts, the jurisdiction had failed to “ensure” compliance. Under Section 18996.2, the failure to “ensure” compliance would be a violation that would subject the local jurisdiction to enforcement action. There is no indication in Public Resources Code section 42652.5 that the Legislature intended that local jurisdictions bear ultimate responsibility for and be subject to penalties for all failures by any person to comply with the regulations.</p>	<p>The language addressed in this comment was modified in the proposed regulations in favor of language that reflects a requirement for an inspection and enforcement program that is “designed to ensure” overall compliance. There is no standard in this section that requires that the inspection and enforcement program achieve 100% compliance.</p>
6194	Dingman, D., Contra Costa County	<p>§ 18995.3(a)(3)(E): If a complainant is anonymous, it would be impossible for a local jurisdiction to notify the complainant of the results of a complaint investigation. Sentence needs to be added clarifying this section does not apply to complaints made to a local jurisdiction anonymously, as there would be no means of communicating with the anonymous complainant to provide notification.</p>	<p>CalRecycle revised 18995.3 was amended to clarify that a jurisdiction is only required to notify the complainant of the results of an investigation if the identify and contact information of the complainant is known.</p>
6195	Dingman, D., Contra Costa County	<p>§ 18995.3(b): CalRecycle has not cited a statute that would exempt from disclosure under the Public Records Act the names and contact information of complainants. Unless there is an authorizing statute, local jurisdictions may not be able to comply with a regulation that requires such information to be kept confidential upon request. If a complainant provides their contact information to the public agency, said information is subject to disclosure upon request unless, one of the exceptions specified in the Public Records Act applies.</p>	<p>Section 18995.3 was substantially amended during the rulemaking process and the requirement to maintain confidentiality is no longer in the regulatory language.</p>
6196	Dingman, D., Contra Costa County	<p>§ 18995.4(a): The regulations exceed the scope of CalRecycle’s rulemaking authority under Public Resources Code section 42652.5 by mandating local jurisdictions to take enforcement action against any entity found in violation of the regulations. CalRecycle has not identified any statute authorizing counties, in their capacity as local government entities, to enforce state regulations. CalRecycle may enforce the regulations itself or create a program to designate local agencies as enforcement</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>agencies that may enforce regulations in return for state funding; for this reason, pursuant to Government Code section 11342.2, it is not necessary to impose enforcement obligations on local agencies. Additionally, even if counties had authority to directly enforce state regulations, there is no suggestion in Section 42652.5 or elsewhere that the Legislature intended to strip local jurisdictions of any enforcement discretion.</p>	
6197	Dingman, D., Contra Costa County	<p>§ 18995.4(a)(3): The regulations exceed the scope of CalRecycle’s rulemaking authority under Public Resources Code section 42652.5 by mandating local jurisdictions to impose penalties on all violators. The statute provides that the regulations may authorize – not mandate – penalties on generators, and does not provide any authority to CalRecycle to either authorize or mandate local jurisdictions to impose penalties on any persons other than generators. Comment also applies to Section 18995.1(a)(1)(B)(5) which states that jurisdictions are required to determine, document and if necessary, take enforcement action for any organic waste generator, selfhauler, hauler, or commercial edible food generator, or other entity determined to be out of compliance.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to ‘fill up the details’ of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
6198	Dingman, D., Contra Costa County	<p>§ 18996.1, 18996.2 & 18996.3: The regulations exceed the scope of CalRecycle’s rulemaking authority under Public Resources Code section 42652.5 by setting forth a mechanism for CalRecycle enforcement oversight over local agencies. Specifically, this enforcement oversight mechanism is not necessary pursuant to Government Code section 11342.2 because the enforcement obligations that CalRecycle seeks to impose on those local agencies also exceed the scope of CalRecycle’s rulemaking authority, as discussed in the comment on Section 18995.4(a).</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
6199	Dingman, D., Contra Costa County	<p>§ 18996.3: The regulations exceed the scope of CalRecycle’s rulemaking authority under Public Resources Code section 42652.5 by requiring local jurisdictions to take specified enforcement actions in the event of each and every violation and subjecting them to penalties for failing to do so. There is no suggestion in Section 42652.5 that the Legislature intended to strip local jurisdictions of discretion in the enforcement of their ordinances, and no suggestion that the Legislature contemplated the imposition of such penalties on local jurisdictions.</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. [The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p>

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			<p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
6200	Dingman, D., Contra Costa County	<p>§ 18996.5: If it was necessary for local jurisdiction to take enforcement action, then it must also be necessary for CalRecycle to take action. Since it is not necessary for CalRecycle to take enforcement action, it is similarly not necessary to impose require that local jurisdictions do so. If adopted as proposed, these Regulations impose numerous requirements that are not “reasonably necessary to effectuate the purpose of the statute” and would therefore not be valid or effective pursuant to Government Code Section 11342.2.</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p>

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			<p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to ‘fill up the details’ of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.
6201	Dingman, D., Contra Costa County	§ 18996.5(b): Large waste generators that have locations in more than one jurisdiction can be quite uncooperative and often unresponsive until someone from a regional or corporate office gets involved. It is unreasonable, not to mention terribly inefficient, to try and mandate that local jurisdictions conduct inspections and issue Notices of Violations for individual locations in each respective jurisdiction prior to referring to CalRecycle for enforcement. What is the point of referring to CalRecycle for enforcement if local jurisdictions have already taken enforcement action individually. Furthermore, it is not realistic to expect that a local jurisdiction would know enough about locations in neighboring jurisdictions to suspect non-compliance. Local jurisdictions will waste a lot of time at a minimum (after struggling to figure out how to contact region or corporate), or even worse in some cases may never even be able to gain access in order to conduct an inspection. CalRecycle needs to accept responsibility for referrals if local governments' are unable to inspect or confirm violation after repeated attempts. It makes sense that CalRecycle take the lead if needing to involve regional/corporate offices because CalRecycle staff would likely find them more responsive that if it was just a local city staff person. More importantly CalRecycle staff would potentially be in a position to address locations in more than one jurisdiction all at once and if in violation impose multiple concurrent penalties, which would certainly have a greater impact and hopefully spark the necessary corrective actions.	A change to the regulatory text is not necessary. Section 18996.5 requires jurisdiction to attempt to remedy the issue before referring the entity to the Department.
6202	Dingman, D., Contra Costa County	§ 18997.2(a) and Table 1: The regulations exceed the scope of CalRecycle's rulemaking authority under Public Resources Code section 42652.5 by mandating local jurisdictions to impose penalties in the amounts set forth, in two respects. First, cities and counties through their governing boards have discretion under the police power in the California Constitution to adopt ordinances. It is within the purview of those governing bodies to determine appropriate fines within the ranges authorized by statute and justified under Constitutional limitations that prohibit excessive punishment. CalRecycle does not have rulemaking authority to substitute its judgment for that of the elected governing bodies of local governments by mandating penalties for violations of local ordinances.	The initial language in Section 18997.2 regarding administrative civil penalties imposed by local jurisdictions was revised to be consistent with Government Code Sections 25132, 36900, and 53069.4 in response to comments.
6203	Dingman, D., Contra Costa County	§ 18997.2(a) and Table 1: The regulations exceed the scope of CalRecycle's rulemaking authority under Public Resources Code section 42652.5 by mandating local jurisdictions to impose penalties in the amounts set forth, in two respects... Second, the proposed Level 2 and Level 3 fines are not consistent with Government Code sections 53069.4 or 25132 to the extent that they mandate fines for second, third and subsequent violations of a requirement without regard to when the violations occur . The above cited statutes authorize fines that exceed \$100 only for second or additional violations that occur within one year of the first violation.	The initial language in Section 18997.2 regarding administrative civil penalties imposed by local jurisdictions was revised to be consistent with Government Code Sections 25132, 36900, and 53069.4 in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
6204	Dingman, D., Contra Costa County	§ 18997.2(c): While this subsection defines what would be considered “stricter” than the stated penalties, it is not clear what would constitute an “equivalent” penalty.	The language at issue in this comment has been deleted from the proposed regulations.
6205	Dingman, D., Contra Costa County	<p>A definition for the term “entity” still needs to be added. In the absence of a definition of the term “entity,” many provisions within these regulations are not clear. It is used in nearly every Article, often it is used as follows to describe whom jurisdictions are obligated to monitor for enforcement purposes: generators, haulers and other entities.</p> <p>Local jurisdictions most likely do not have authority over all types of “entities” that may be intended, however it is difficult to be certain without defining the term. It isn’t clear what is meant when Chapter refers to “entities” within a jurisdiction’s authority. To the extent this phrase refers to any and all entities located within a jurisdiction’s boundaries, it would include all private residences as well as many lawfully operated businesses that are not included in any permit programs. Absent consent to an inspection, or cause to inspect and a warrant, local jurisdictions could not lawfully inspect these locations. CalRecycle would have to conduct inspections authorized under Article 15 for any locations that local jurisdictions could not lawfully inspect.</p>	<p>CalRecycle did not include a definition for “entity” because it is using the term in the regulations consistent with the commonly understood dictionary definition of the word as opposed to a specialized term requiring regulatory clarification. The term “entity” is used thousands of times in various state statutes without definition for the same reason.</p> <p>Regarding commenter’s concern regarding use of the phrase “...and other entities,” this phrase appears almost exclusively in the “General Provisions” portion of the regulations at Sections 18981.1 and 18981.2 and is intended to be a catch-all term for entities that are subject to explicit regulation under this rulemaking (eg. food recovery services and organizations) that are not otherwise listed in those sections. In Section 18981.2, the phrase is further limited to other entities “subject to the jurisdiction’s authority...” This is intended to exclude certain entities like state agencies, federal facilities, special agencies and other such entities that are not subject to a local jurisdiction’s regulatory authority. See the definition of “non-local entity” in Section 18982(a)(42).</p> <p>CalRecycle agrees that any inspections are subject to Fourth Amendment requirements. CalRecycle agrees that a jurisdiction is not obligated to undertake inspections or other enforcement action against entities outside of their regulatory jurisdiction. Inspection and enforcement against a “non-local entity,” as appropriate, would be undertaken by CalRecycle</p>
6206	Dingman, D., Contra Costa County	<p>Not all types of organic waste is suited or accepted for curbside collection, so the Regulations should more clearly and narrowly define the types of organic waste that must be placed in the green containers. It would be more appropriate to specify that the types of organic wastes which need to be collected separately match the definition of “organic waste” for the purpose of AB 1826 compliance. PRC Definition: “Organic waste” means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
6207	Dingman, D., Contra Costa County	<p>The revised definition for the term “jurisdiction” is an improvement as it now clearly assigns responsibilities applicable to Organic Waste Generators, Edible Food Generators and Haulers to the city, county or special district with authority over the collection service franchise for each applicable service area. However, there are multiple sections in which the term jurisdictioni is used when the intended reference seems to be only cities, counties or regional agencies (old definition of jurisdiction).</p>	<p>While the commenter does not cite a specific section, CalRecycle reviewed the entire regulatory text and where appropriate specified for certain articles that the term jurisdiction as used in that article is specific to a subset of “jurisdictions.” For example, in Article 12, the following language was added, “For the purposes of this section, “jurisdiction” means a city, a county or a city and county.”</p>
6208	Dingman, D., Contra Costa County	<p>Government Code section 42652.5 authorizes local jurisdictions to charge and collect fees to recover its costs of compliance with the regulations to be adopted by CalRecycle. However, CalRecycle should not have the ability under this section to require the local jurisdiction to demonstrate that it has adequate budget resources</p>	<p>It is unclear to what fee limitations and regulatory requirements for “adequate budget resources” the commenter is referring. Language regarding “adequate budget resources” is not contained in the proposed regulations. Section 18996.2(a)(2)(B) does contain provisions disallowing extensions of Corrective Action Plan timelines in circumstances where, among other situations, a jurisdiction</p>

Comment Number	Received From	Question/Comment	Response(s)
		to implement all of the provisions of the regulations, because a local jurisdiction may not have legal authority under other statutes or the California Constitution to impose charges that are sufficient to fund all of the mandated enforcement activities.	has failed to provide sufficient funding to ensure compliance. However, there are no explicit provisions in the proposed regulations requiring specific budgeting levels by local jurisdictions.
6209	Dingman, D., Contra Costa County	Since the regulations cannot take effect until January 1, 2022, the regulations should not impose a requirement that local jurisdictions take action prior to that date – the correct wording should be “no later than” rather than “on or before.”	SB 1383 mandates that these regulations go into effect on January 1, 2022 per the language of the enabling statute. It is clear the Legislature intended for the requirements to be enforceable at that time. The timing for adoption of local ordinances reflects this. The requirement in the proposed regulations for jurisdictions to have enforceable mechanisms consistent with the requirements of the SB 1383 regulations is not enforceable until January 1, 2022. Therefore, this requirement is not in effect until then.
6383	Dingman, D., Contra Costa County	Furthermore, there are a number of details that jurisdictions would be required to report one month after the Regulations take effect (February 1, 2022), including submitting copies of adopted ordinances and confirmation of compliance with container color requirements. The process to adopt ordinances requires more than one month to complete, so this reporting requirement is unreasonable.	CalRecycle has revised section 18994.1 in response to this comment. A jurisdiction shall report its initial compliance report to the Department on April 1, 2022.
6384	Dingman, D., Contra Costa County	Furthermore, jurisdictions with numerous generators and multiple franchise haulers will need more than one month to make compliance determinations about all containers meeting the applicable requirements.	CalRecycle has revised section 18994.1 in response to this comment. A jurisdiction shall report its initial compliance report to the Department on April 1, 2022.
6385	Dingman, D., Contra Costa County	All reporting obligations should be changed to the standard August 1st dates at the very minimum.	A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
6386	Dingman, D., Contra Costa County	What does CalRecycle assert provides the legal authority necessary to adopt regulations which impose penalties on jurisdictions for not enforcing requirements imposed in regulations but not the legislature?	<p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.”</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>39730.6 of the Health and Safety Code.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste. Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, "A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section."</p>
6387	Dingman, D., Contra Costa County	What does CalRecycle assert provides legal authority to adopt regulations which impose penalties on jurisdictions for actions that are or are not taken by generators or other entities?	<p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute "requirements for local jurisdictions" and "penalties to be imposed by CalRecycle for noncompliance."</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority' The [administrative agency] is authorized to "'fill up the details'" of the statutory scheme."</p> <p>Consistent with CalRecycle's broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission's 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that "state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the</p>

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			<p>sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
6388	Dingman, D., Contra Costa County	What provides CalRecycle with the legal authority necessary to adopt regulations that require jurisdictions to impose penalties on any persons other than generators, which are the only entities specified by the legislature in the SB 1383?	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. [The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory</p>

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			<p>authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
6389	Dingman, D., Contra Costa County	What provides CalRecycle with the legal authority necessary to adopt regulations that impose penalties on jurisdictions for not enforcing requirements imposed in regulations but not the legislature (SB 1383)?	<p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section</p>

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			<p>regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p> <p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.”</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p>

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			<p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
6390	Dingman, D., Contra Costa County	What provides CalRecycle with the legal authority necessary to adopt regulations that impose penalties on jurisdictions for not imposing penalties which jurisdictions believe is outside of their legal authority?	Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their

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			<p>jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring</p>

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6391	Dingman, D., Contra Costa County	What necessitates that CalRecycle’s proposed Regulations impose mandatory penalties that must be imposed by local jurisdictions while leaving CalRecycle complete discretion about whether or not to impose penalties upon jurisdictions or other regulated entities?	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section</p>

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6392	Dingman, D., Contra Costa County	What provides CalRecycle with the legal authority necessary to adopt regulations that do not impose mandatory requirements that are equivalent whether entities are subject to enforcement by jurisdictions vs. Calrecycle?	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court</p>

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6393	Dingman, D., Contra Costa County	What provides CalRecycle with the legal authority necessary to undermine or overrule matters that fall under the purview of governing bodies of individual jurisdictions, such as what ordinances to adopt and what if any penalties shall be imposed for any alleged violations?	Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”

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6394	Dingman, D., Contra Costa County	Why is CalRecycle specifying penalty amounts that jurisdictions must impose for violation of local ordinances that are in excess of what counties are allowed to impose under existing statute (Government Code)?	CalRecycle has revised section 18997.2 in response to this comment. The penalty table for penalties imposed by the jurisdiction has been removed. A jurisdiction shall impose penalties for violations consistent with the graduated penalty amounts authorized in Sections 53069.4, 25132 and 36900 of the Government Code which is outlined in Section 18997.2(a).
6395	Dingman, D., Contra Costa County	How can CalRecycle impose penalties on a county for simply refusing to impose penalties that are deemed unlawful (exceed what is allowed under the Government Code)?	<p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and</p>

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			<p>compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p> <p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.”</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to ‘fill up the details’ of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
6396	Dingman, D., Contra Costa County	There are inaccurate assertions regarding “Local Mandate and Fiscal Determinations” in the INITIAL STATEMENT OF REASONS. The requirements imposed under the proposed Regulations do in fact impose mandates on local agencies that require State reimbursement pursuant to the California Constitution.	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
6397	Dingman, D., Contra Costa County	Government Code section 42652.5 authorizes local jurisdictions to charge and collect fees to recover its costs of compliance with the regulations to be adopted by CalRecycle. However, CalRecycle should not have the ability under this section to require the local jurisdiction to demonstrate that it has adequate budget resources to implement all of the provisions of the regulations, because a local jurisdiction may not have legal authority under other statutes or the California Constitution to impose charges that are sufficient to fund all of the mandated enforcement activities.	It is unclear to what fee limitations and regulatory requirements for “adequate budget resources” the commenter is referring. Language regarding “adequate budget resources” is not contained in the proposed regulations. Section 18996.2(a)(2)(B) does contain provisions disallowing extensions of Corrective Action Plan timelines in circumstances where, among other situations, a jurisdiction has failed to provide sufficient funding to ensure compliance. However, there are no explicit provisions in the proposed regulations requiring specific budgeting levels by local jurisdictions.
6398	Dingman, D., Contra Costa County	What grants CalRecycle the legal authority necessary to impose such burdensome and potentially unreasonable procurement requirements on individual? What if the jurisdiction can't use (or require others to use/procure on its behalf) as much of either/both type of products as would be required to meet its procurement target?	<p>SB 1383 provides a broad grant of regulatory authority to the Department in Public Resources Code Section 42652.5, “The department, 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.” That section also provides that the Department may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, the Department also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where the Department successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p> <p>Section 18993.1(h) of the proposed regulations provides a “safety valve” to address any cases where procurement targets exceed local need in order to relieve jurisdictions of purchasing excess or unnecessary recycled organic waste products.</p>
6399	Dingman, D., Contra Costa County	<p>§ 18993.1(b)(2): The California Department of Finance does not report data for all applicable jurisdictions required to comply with SB 1383 (meaning cities, counties, regional agencies and special districts with authority over collection of organic waste). It is inappropriate to impose procurement target upon a County for the entire unincorporated area population if it only has authority over the collection services provided to roughly half of its population. How is the population going to be broken down by jurisdiction for the purpose of calculating jurisdictional procurement targets if not broken down by jurisdiction where special districts have authority over waste collection services, as is the case for unincorporated Contra Costa County?</p>	<p>The recovered organic waste product procurement target only applies to cities and counties. Due to overlap between a city’s population and the population of a special district, the regulation was narrowed to only apply the procurement targets to cities and counties. Procurement targets will be assigned to each city and county based on population data published by the Department of Finance (DOF). The individual city or county is ultimately responsible for compliance with the procurement requirements, regardless of whether waste collection responsibilities are delegated to another entity. The procurement target is linked to the waste created by the population that resides within the city, not the number of generators provided a collection service. Whether the city or another entity provides the service is irrelevant, the residents of the city are creating waste and the city is responsible for procuring a minimum amount of recovered organic waste products to mitigate the impacts of that waste creation.</p> <p>It is the intent of Article 12 for jurisdictions to work with special districts and similar entities to meet the jurisdiction’s procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU).</p>

Comment Number	Received From	Question/Comment	Response(s)
6400	Dingman, D., Contra Costa County	How is each jurisdiction expected to determine (calculate) amount of edible food discarded by generators within their jurisdiction?	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
6401	Dingman, D., Contra Costa County	Who would be subject to enforcement action if county is unable to determine organic waste/edible food capacity needed & under what authority is such imposed?	To clarify, if a county fails to provide the estimates that are required by Article 11, then the county could be subject to enforcement action. CalRecycle added language to the regulatory text specifying that if a jurisdiction or regional agency fails to provide the county with the information necessary to comply with the Article within 120 days, then the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3. If a jurisdiction fails to comply with their requirements under Article 11, then the jurisdiction could be subject to enforcement action.
6402	Dingman, D., Contra Costa County	How is each jurisdiction expected to determine (calculate) amount of edible food capacity available to each jurisdiction?	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
6403	Dingman, D., Contra Costa County	What grants CalRecycle the legal authority necessary to impose requirements that jurisdictions adopt and enforce local ordinance(s) to address the statewide mandates in SB1383?	<p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.”</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p>
6404	Dingman, D., Contra Costa County	What provides CalRecycle the authority to impose trash and non-organic recycling container color requirements?	SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This

Comment Number	Received From	Question/Comment	Response(s)
			authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.
6405	Dingman, D., Contra Costa County	What provides CalRecycle the authority to impose requirements that is widely known to increase contamination of organics thereby compromising ability to recover said organics?	SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.
6337	Donlevy, J., City of Winters	Additionally, we remain concerned about critical points that hinder our ability to implement the proposed regulation. As a small city of 7000 residents we do not have the staffing available to implement and monitor the demands SB 1383 is proposing.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6338	Donlevy, J., City of Winters	The regulations will also place a huge burden on many of our small businesses. The proposed regulations will be extremely challenging for existing businesses in the older section of downtowns with limited space availability.	A change to the regulatory text is not necessary but comment is noted. A text change is not necessary because the commenter gave an example in support of the space waiver granted by jurisdictions.
6103	Drane, N., County of Sacramento	The proposed SB 1383 regulatory language is too punitive in nature. The regulation is centered on the restriction of certain materials from certain containers. These restrictions are enforced through a series of annual inspections and reviews of organics generators, which result in violations and fines. The draft SB 1383 regulations mandate fines for all generators found in violation even though the	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle

Comment Number	Received From	Question/Comment	Response(s)
		<p>legislation itself would only authorize, not mandate jurisdictions to impose penalties. These fines are detailed in 11 pages of the regulation text and range from \$50 to \$10,000 per day depending on the generator's violation.</p> <p>The County believes that this is the wrong approach, particularly for our residents. Our experience has found coercive or punitive approaches do not gain public cooperation, but rather decreases participation and increases activities to bypass the violations, such as illegal dumping. We recommend the regulatory approach emphasize enhanced generator education and incentive programs that attract generators to participate and that discretion for imposing penalties remain at the jurisdictional level.</p>	<p>to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.</p> <p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>
6104	Drane, N., County of Sacramento	<p>SB 1383 and the draft regulations represent a significant expenditure mandate to local jurisdictions with little financial support from the State of California. This regulation will require Sacramento County to expand its organics collection fleet, hire new staff to comply with outreach and enforcement requirements, make significant improvements to existing facilities, develop new organic processing facilities, and administer the capacity planning programs for organic waste recycling and edible food recovery for jurisdictions within the County. The fiscal impact on our residents and businesses will be immediate and hefty. The County estimates that our customer monthly rates could increase by over 50%. We request that Cal Recycle consider the overall fiscal impact of the proposed requirements, especially under such short timeframes.</p>	<p>Comment requests evaluation of fiscal and economic impacts. These were considered in the SRIA.</p>
6105	Drane, N., County of Sacramento	<p>Cal Recycle has proposed excessive route reviews, facilities inspections, waste characterizations, and reporting requirements. More is not always better, especially with the proposed language. Quarterly route reviews, annual facility inspections, characterization of waste every 500 tons, and documentation of every interaction a service provider has with their customers adds to the cost of a jurisdiction's program without commensurate additional value. Furthermore, the draft regulations do not provide any threshold or defined level of contamination allowed during these required inspections and route reviews.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>We believe this will create substantial confusion amongst operators, residents, and businesses, additionally diluting the intent of the draft regulations. We ask that CalRecycle take an alternative approach to data collection and ask itself “What do we need?” as opposed to “What can we get?” when formulating these requirements. In addition, we request Cal Recycle to define acceptable levels of contamination to help facilitate clear expectations, such as contamination over 5% by weight shall be documented.</p>	<p>These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6106	Drane, N., County of Sacramento	<p>The goals and compliance dates required by the draft SB 1383 regulations are unrealistic due to the lack of existing processing facilities. There are no solid waste facilities permitted to process food waste in Sacramento County. Even CalRecycle estimates that 80 to 90 new facilities will be needed to meet the demands of SB 1383. Sacramento County estimates development of local facilities will take between 5 and 10 years. Sacramento County requests CalRecycle explore a legislative solution to this issue.</p> <p>Adjustment of the 2022 deadline for source separated collection of residential organics to 2027 would result in a goal that is more achievable for jurisdictions subject to SB 1383. The legislation requires that regulations take effect on or after January 1, 2022, thus it appears Cal Recycle has the ability to adjust the effective date of the regulation start date.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
6107	Drane, N., County of Sacramento	<p>Handling of residential food waste in the green containers will require substantial improvements to Sacramento County solid waste facilities. Greenwaste traditionally has been collected, stored temporarily, and transferred at open-air facilities. Introduction of food waste in the greenwaste will require that material be managed inside covered facilities. Improvements at Sacramento area solid waste facilities to transfer organic wastes are estimated in the tens of millions of dollars. Development of new local processing facilities would likely cost in excess of \$100,000,000 and would unlikely be operational by 2022. Again, delay of the 2022 deadline for</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of</p>

Comment Number	Received From	Question/Comment	Response(s)
		residential source separated food waste collection would reduce the significant, immediate burden on local jurisdictions, residents, and businesses.	complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6108	Drane, N., County of Sacramento	Section 20700.5 The draft language introduces new requirements on landfill operations that are burdensome to the continued operation of these essential facilities. CalRecycle proposes to triple the thickness of long-term intermediate cover. CalRecycle proposes this change with no technical evidence that the existing Landfill Methane Rule is not effective in limiting methane emissions from landfills.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
6109	Drane, N., County of Sacramento	Additionally, the draft regulation requires that new or expanding landfills implement organic waste recovery activities while providing little definition of what constitutes expanding or recovery activities.	A change to the regulatory text is not necessary. 27 CCR Section 20750.1(c) defines the term “expanding” which means a solid waste landfill proposing to make a significant change to the design or operation pursuant to 27 CCR 21665. As noted in Subdivision (c)(1), a significant change does not include a change in hours of operation of a landfill. The purpose of this section is to require new or expanding solid waste landfills to implement an organic waste recovery activity for any waste received that has not been processed previously at a High Diversion Organic Waste Processing Facility or Designated Source Separated Organic Waste Facility. Organic waste recovery activities include composting facilities or operations, in-vessel digestion facilities or operations, and other activities listed under Section 18983.1(b). Landfills that do not have available land or the finance to implement an organic waste recovery activity on-site have the option to transport the waste off-site to another facility where a recovery activity can take place.
6110	Drane, N., County of Sacramento	Section 21695.Finally, the draft language requires submittal of an Organic Disposal Reduction Status Impact Report, which is essentially an out of sequence 5-year Joint Technical Document review. Sacramento County recommends these regulation modifications be removed from consideration	CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations. This standard is not duplicative of a five-year Joint Technical Document review. The purpose of the SIR is to assist operators better understand the potential impact the proposed regulations could have on their landfill which is different than the five-year review. A five-year review is completed by the EA every five years from the last review and evaluates (among other things) the information provided in the application for the proposed facility to determine whether or not the facility will be able to operate in accordance with state minimum standards and permit terms and conditions.

Comment Number	Received From	Question/Comment	Response(s)
			<p>Whereas, the SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order properly implement any changes or modifications to the landfill in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p> <p>In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills.</p>
6111	Drane, N., County of Sacramento	The County requests that CalRecycle insert “good faith effort” language that may be authorized within the framework of the legislation. The short timeline for compliance with the new regulations and the significant required change in generators’ behavior, makes a “good faith effort” clause essential to the successful implementation of new programs for both the State and local jurisdictions.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
6112	Drane, N., County of Sacramento	(71) “Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items. Delete -- The definitions of grocery store and supermarket are redundant. Only one definition is needed.	In some cases, grocery stores and supermarkets could be separate entities. For example, some 10,000 square foot grocery stores will not have gross annual sales of \$2,000,000 or more, yet they could still have a significant amount of edible food available for food recovery. Therefore, it was important that the two commercial edible food generators were defined separately.
6113	Drane, N., County of Sacramento	65) “Route review” means a visual inspection of containers along a hauler route for determining container contamination, and may include mechanical inspection methods such as the use of cameras. Proposed: “Route review” means a visual inspection of a <u>statistically significant number of randomly selected</u> containers along a hauler route for determining container contamination, and may include mechanical inspection methods such as the use of cameras. Inspection of all organic containers annual will be extremely labor intensive. Sacramento County services 155,000 accounts. A 2-person team of our route auditors can inspect 250 accounts per day. To inspect all organics accounts annually,	Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction.

Comment Number	Received From	Question/Comment	Response(s)
		620 team days would be needed. This equates to 5 full time equivalent employees or over \$500,000 in labor alone.	
6114	Drane, N., County of Sacramento	Proposed language: (A) The material has been processed at a solid waste facility, as defined in Section 40194 of the Public 18 Resources Code. <u>Processing shall consist of contaminate removal and reduction of size to 12-inches or less.</u> What constitutes processed?	Section 18982(a)(56) defines "Processing" as having the same meaning as 14 CCR Section 17402(a)(20). Section 17402(a)(20) defines "Processing" as the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines or volume reduction equipment. Recycling Center is more specifically defined in section 17402.5 (d) of this Article.
6115	Drane, N., County of Sacramento	Proposed language: 1) The green container shall be provided for the collection of organic waste... The contents of the green container shall be transported to a facility that recovers source separated organic waste <u>or transport to another site where those activities occur.</u> The requirement that the contents of organic and recyclable container can only be transported to a facility that processes the waste does not allow these materials to be transported to a transfer operation or facility before being sent to a subsequent facility for processing. This practice is common in rural areas or areas lacking the processing infrastructure.	Article 3 allows the contents of containers to be initially transported to a consolidation site.
6116	Drane, N., County of Sacramento	Re section 18984.1: 2) The blue container... Proposed language: <u>or transport to another site where those activities occur.</u>	Article 3 allows the contents of containers to be initially transported to a consolidation site.
6117	Drane, N., County of Sacramento	Proposed language: (1) Property owners shall provide information to new tenants <u>before or within 14 days of upon</u> occupation of the premises. The actual date of occupation of the tenant can be hard to determine sometimes (may be moving in over a week or two). Allow more flexibility to provide before move-in or within 14 days.	CalRecycle revised Section 18984.10(b)(1) in response to this comment. This change is necessary to specify the time frame for providing information, recognizing that the actual date of occupancy can vary.
6118	Drane, N., County of Sacramento	See proposed language. Disposal of any container that has not meet the end of its useful life should not be considered. This is a wasteful proposal and will result in a larger GHG impact.	Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. The regulations allow for replacing the container at the end of its useful life or by Jan. 1, 2036.
6119	Drane, N., County of Sacramento	Proposed language: (1) De Minimis Waivers...(B) A jurisdiction shall annually verify <u>at least every five years</u> that the commercial businesses' organic waste generation meets the waiver thresholds set forth in this subdivision. Too onerous and not an efficient use of resources to have to inspect every year verifying the threshold, specifically on the smallest generators.	CalRecycle has revised the verification period to five years in response to this comment. Thank you for the support comment. This comment is in support of the current language.
6120	Drane, N., County of Sacramento	Simply re-state the waiver described in (a) (1) (A) (1) and (2) as "If a commercial business generates less than 20 gallons of organic waste per week, that business is exempt from this Section."	As explained in the FSOR, 10 and 20 gallons respectively equate to roughly 10 percent of waste generation for small businesses that produce 2 cubic yards and 1 cubic yard of organic waste for that specific container per week. This de minimis threshold was established based on input from

Comment Number	Received From	Question/Comment	Response(s)
		Too onerous and not an efficient use of resources to have to inspect every year verifying the threshold, specifically on the smallest generators.	stakeholders while also ensuring that these waivers do not compromise the state's ability to achieve the organic waste reduction targets. CalRecycle has revised the verification period to five years in response to this comment.
6121	Drane, N., County of Sacramento	See proposed language Given the ability of modern collection containers to control potential vector and nuisance issues, allowing the Local Enforcement Agency to provide a waiver to allow every other week collection of all containers, including green containers, will provide the LEA an opportunity to weight in and possibly prevent the estimated 25% increase in equipment (collection trucks) and staffing as well as the carbon emissions and the enormous cost that this more frequent collection will create. This also better delivers on the purpose of SB1383 to reduce greenhouse gas emissions.	Nothing in the regulations exempts jurisdictions from existing public health and safety requirements regarding the requirement to collect waste in a manner that does not create threats to public health and safety. The language regarding collection waivers specifies that the jurisdiction must demonstrate to the enforcement agency that a collection frequency waiver will not impact the receiving solid waste facilities ability to comply with solid waste facility permitting standards related to protecting public health and safety from the handling of solid waste. CalRecycle cannot verify that a green or gray container would not include putrescible waste, it is likely that at least one container, which ever contains food will be putrescible. Which is why approval for 14 day collection is subject to review by the EA.
6122	Drane, N., County of Sacramento	proposed language: (b) Waivers issued pursuant to subdivision (a) shall be good for a period of up to five years and shall be subject to approval Section (a) (2) allows low population areas in unincorporated portions of the county to be eligible for a waiver. The use of census tracts in unincorporated areas seems to work for rural areas although the proposed requirement should reference a time reference and source for the density determination. Although this population density by census tract does work for many areas, there needs to also be an allowance to add additional low population areas that are less than the 50 people per square mile but are still within a census tract that is larger than 50. Many census tracts are established along natural features like rivers and artificial structures like roads. There are many census tracts where the population is located on the fringe of the census tract but most of the census tract is under the 50-population density. These low population areas may not even have contracted collection services and the roads are not designed to withstand vehicle traffic. This waiver process should also allow for inclusion of other low population areas that are not included in the census tract designations. Section (b) only allows the waiver for a period of two years. This is an extremely short period of time given the time needed to determine the efforts to implement organics programs in that area and submit an application for a waiver. CalRecycle has 90 days to review and approve the waiver. A two-year time limit will essentially require a jurisdiction to spend effort to start the application for an additional waiver upon approval of the waiver. It is unlikely that circumstance in these low population areas will change within two years. We recommend a five-year cycle for renewal of these waivers.	CalRecycle added that a special district that provides solid waste collection services or a regional agency can apply for a waiver. The change is necessary to clarify that a special district that provides solid waste collection services and a regional agency would also be eligible to apply for any of the waivers in this section. CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state. Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.

Comment Number	Received From	Question/Comment	Response(s)
			<p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383’s organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals. CalRecycle agrees that most low-population areas that are granted a waiver by CalRecycle are likely to remain as qualifying low-population areas for longer periods of time; allowing a waiver to be operational for a longer period of time is warranted and will reduce the costs of compliance. CalRecycle has made a language change in response to this comment.</p> <p>After the change was made, commenters were in support that low population waivers are good for five years instead of two.</p>
6123	Drane, N., County of Sacramento	proposed language: Upon finding <u>5% by weight</u> (or some amount that is clearly defined, besides zero) of prohibited container contaminants in a container, the	During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a

Comment Number	Received From	Question/Comment	Response(s)
		<p>jurisdiction, or its designee, shall contact the generator or provide written notice to the generator.</p> <p>Enforcement must be realistic and acknowledge that contamination will occur even by the most conscious generators. Jurisdictions should not be penalized for small amounts of contamination if following other practices.</p> <p>We support a regulation that strives for zero contamination because it is simplest to verify, and works toward the goal of creating quality compost.</p> <p>However, during implementation CalRecycle must allow for enforcement practices that allow flexibility for very minimal contaminants that may be relatively easily sorted out in pre-processing. Currently, we don't give a contamination violation if it appears minimal such as one or two items.</p> <p>Jurisdictions should not be penalized because they did not fine generators for minimal contamination or illegally dumped contamination. Allow flexibility during enforcement for very minimal contaminants to acknowledge that all contaminants are not equal (10 plastic bottles vs 2 glass bottle vs one engine block vs one milk carton). Furthermore, by defining a threshold of allowed contaminants, will allow Jurisdictions to focus on the worst offending generators.</p>	<p>particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6124	Drane, N., County of Sacramento	<p>See proposed language</p> <p>Without knowing the threshold of contaminants, it is likely every load from a generator will have some trace of contaminants and the frequency of write-ups will be so high the write-ups will lose any impact on changing behavior. It would be overly burdensome to have to transfer photo files monthly. Alternatively, only make it so you transfer photos if the generator has contaminants on more than three occasions to align with (b) (3).</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6125	Drane, N., County of Sacramento	<p>re section: 18984.5: Allow flexibility during enforcement for very minimal contaminants to acknowledge that all contaminants are not equal (10 plastic bottles vs 2 glass bottle vs one engine block vs one milk carton). Alternatively, even better, provide a threshold of allowable contaminants, as source separated organics will go through further processing.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6126	Drane, N., County of Sacramento	<p>Proposed language: (3) If the jurisdiction observes prohibited container contaminants in a generator’s green container or blue container on more than three consecutive occasions, the jurisdiction may impose additional contamination processing fees on the generator, and may impose penalties, <u>or remove the cart from service.</u></p> <p>Local jurisdictions should be allowed to remove a repeat violator customer's recycling or organic cart from service. Removal from service is the only way to resolve issues with some repeat offender accounts. This action also prevents continued contamination of the recycling streams.</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter. The Department wanted to ensure a fair playing field for all entities and to identify that jurisdictions have the primary responsibility in monitoring compliance and taking enforcement on entities failing to comply with the chapter. A compliance review is intended to be a “desk audit” to verify that all solid waste accounts for commercial businesses, that generate two cubic yards or more per week of solid waste, are subscribing to service or self-hauling organic waste to a facility that processes source separated organic waste or to a high diversion organic waste processing facility, whichever if applicable. The regulations allow the jurisdiction flexibility when conducting a “sufficient number of route reviews and inspections.”</p> <p>Jurisdiction may prioritize route reviews and inspections to large generators or entities it determines to be more likely out of compliance. If an entity is found to be noncompliant between</p>

Comment Number	Received From	Question/Comment	Response(s)
			January 1, 2020 through December 30, 2023, jurisdictions are required to provide educational material describing the applicable requirements of this Chapter.
6127	Drane, N., County of Sacramento	Proposed language: A jurisdiction <u>or its designee</u> shall provide collection containers to generators.... Reinstate "or its designee" or use "its authorized hauler". As currently proposed, this statement could be interpreted as making the jurisdiction responsible for providing containers to commercial accounts.	The regulations already allow for a jurisdiction to designate certain responsibilities to designee.
6128	Drane, N., County of Sacramento	re section 18985.1 (a) -- Items 2, 3, 4, 5, and 6 are also applicable to generators with singlecontainer organic waste collection service. Single-container systems should also be educating generators.	CalRecycle revised Section 18985.1(d) to provide consistency in required education and outreach requirements for the three different container service options.
6129	Drane, N., County of Sacramento	proposed language: Prior to February 1, 2022, and annually thereafter, <u>to the extent that a jurisdiction has information about self-haulers</u> , a jurisdiction shall provide to self-haulers information regarding the requirements of Section 70.3 of this chapter. If a jurisdiction has a transfer station or other facility in their jurisdiction, they can provide self-haul customers with information, but otherwise they may not have knowledge of who is self-hauling, especially if they are cash customers.	CalRecycle deleted requirements that jurisdictions specifically identify and educate self-haulers in response to this comment. Jurisdictions can meet the requirement to educate self-haulers by including information oneself-hauling in their general education and outreach material provided to all generators. CalRecycle deleted language requiring solid waste facility operators to educate self-haulers as it would be overly burdensome and is outside the scope of what EAs monitor at solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction. Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(c) to include all education requirements for single unsegregated collection systems.
6130	Drane, N., County of Sacramento	Proposed language: (f) If more than five percent of a jurisdiction's generators are defined as Limited English Speaking Households, "...the jurisdiction shall provide the information required by this section in a language or languages that will assure the information is understood by those generators <u>and/or by graphics</u> that will assure the information is understood by those generators. Graphics can transcend languages.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
6131	Drane, N., County of Sacramento	re sections 18986.1 and 18986.2 -- Non-Local Entities and Local Education Agencies should be required to report to local jurisdiction regarding their efforts related to outreach to employees in a fashion similar to all generators.	It is not necessary to require this specific set of generators to report to the department or jurisdictions in order to achieve the purpose of the statute. Jurisdictions are required to monitor generators subject to their authority for compliance, but generators are not specifically required to report information to jurisdictions under the regulations.

Comment Number	Received From	Question/Comment	Response(s)
6132	Drane, N., County of Sacramento	<p>re: 18988.3 (b) 3 and 4 -- Remove these requirements. Requiring businesses who self-haul organic waste material to record and report to the Jurisdiction is burdensome to both the generator and Jurisdiction. Self-haul tonnages can be recorded and reported at the recovery facility.</p>	<p>Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.</p>
6133	Drane, N., County of Sacramento	<p>Proposed language: Remove or (b) A jurisdiction shall not implement or enforce an ordinance...that do any of the following: (3) Limit the export outside of organic waste to a facility, operation, property or activity outside of the jurisdiction that recovers the organic waste through a method identified in Article 2 of this chapter <u>when there is not an organic waste facility, operation, property or activity that recovers the organic waste through a method identified in Article 2 of this chapter, located within the jurisdiction.</u> While the goals of directing organics to recovery facilities wherever they may be found (whether inside the jurisdiction or for “export”) is laudable, this provision inherently takes away a tool (controlling waste flow by ordinance) that jurisdictions have traditionally used to integrate a solid waste management system as a whole as well as ensure the financial viability of particular facilities. Limiting that ability is counterproductive and we recommend removing it in its entirety and therefore we recommend removing the language, however, we have presented alternative language that could still allow a jurisdiction to control the flow if there are opportunities to recycle organics per Article 2.</p>	<p>A change to the regulatory text is not necessary. Section 189901 (c) (4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery. Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law.</p>
6134	Drane, N., County of Sacramento	<p>re 18992.2 -- Will Cal Recycle be providing methodology for calculating estimates of amount of edible food and the capacity of generators to recover 20%?</p>	<p>CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.</p>
6135	Drane, N., County of Sacramento	<p>proposed language: February <u>August 1</u>, 2022 counties shall report...</p>	<p>The regulatory language was changed to August 1, 2022 to align with other reporting requirements in existing programs.</p>

Comment Number	Received From	Question/Comment	Response(s)
		Align with EAR dates requested in Section 18994.2 (a). Moreover, jurisdictions will be in the throes of implementation in February, so would be more effective to allow more time for reporting.	
6136	Drane, N., County of Sacramento	<p>See proposed language</p> <p>The renewable transportation procurement concept is defined too narrowly. Procurement of energy from any biogas source for public use should be allowable. For example, anaerobic digestion of organics in a POTW digester generates methane that can be converted to electricity and used to power the POTW, substituting for “brown” power purchased from an electric utility. But Article 12 allows only vehicle fuel use to count toward the procurement requirement. This seems overly limiting.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards."</p>
6137	Drane, N., County of Sacramento	<p>Proposed language: Commencing August 1, <u>2023</u>, and annually thereafter, a jurisdiction shall report the information required by this section. The report submitted in 2023 shall cover the period of January 1, 2022-June 30, 2022. Each subsequent report shall cover the entire previous calendar year.</p> <p>One month (July 2022) is significantly too short a time to pull together the extensive reporting required for a Jan to Jun 2022 time period, especially for the first report. It's also repetitive for the full calendar year 2022 to be reported in Aug. 2023.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual</p>

Comment Number	Received From	Question/Comment	Response(s)
			Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
6138	Drane, N., County of Sacramento	re 18994.2 (i)(1)(b) -- Further clarity needed as to what "verifiability available" means. Would a jurisdiction report on the edible food recovery service or organization ability to collect food?	To clarify, the amount of capacity 'verifiably available' to the county and cities within the county means the amount of capacity that the jurisdiction has verified exists and is available for use. To clarify the question about jurisdiction reporting, jurisdictions are required to report to counties and counties are required to report to CalRecycle.
6139	Drane, N., County of Sacramento	proposed language: A jurisdiction shall generate a written report <u>or keep electronic records</u> for each inspection, route review, and compliance review conducted pursuant to this Chapter Our Department is moving to electronic documenting. Providing a written report for every inspection would be overly burdensome. And not environmentally friendly.	CalRecycle has revised section 18995.1 in response to this comment. The section will allow electronic reports for each inspection, route review and compliance review.
6140	Drane, N., County of Sacramento	proposed language: (1) On or before January 31, 2023, and at least <u>every two years</u> thereafter, a jurisdiction shall conduct the The regulation will not be effective until 2022. Requiring compliance reviews within the first month of the regulation being effective is not practical. Additionally, annually compliance reviews are burdensome and not cost effective given the number of commercial and residential routes.	A change to the regulatory text is not necessary. The statute states the regulations shall take effect on or after January 1, 2020. The compliance reviews are expected to be conducted sometime during the year 2020 and then annually each year for all solid waste collection accounts for commercial businesses. The legislature anticipated and contemplated early action to adopt the regulations and meet the interim organic waste reduction goal set for 2020. The success of the SCLP Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Postponing the start date and frequency of compliance reviews contradicts this timeline.
6141	Drane, N., County of Sacramento	See proposed language Annual verification of waivers is overly burdensome. De minimus or space constraints are unlikely to change for businesses over time. Annual verification would take significant effort for local jurisdictions.	CalRecycle has revised the verification period to five years in response to this comment.
6142	Drane, N., County of Sacramento	re: 18995.1 -- "Sufficient number" should be defined. A Jurisdiction may have a significantly different interpretation of this language verses Cal Recycle's inspectors.	A change to the regulatory text is not necessary. The language in this subsection was worded in such a way to allow the requirement for inspections to be tailored to the unique circumstances of each jurisdiction. This allows the jurisdiction the flexibility to conduct the number of inspections needed to have an overall picture of the compliance of generators under their authority and to ensure their own compliance with the Chapter. Jurisdictions shall have an inspection plan on how they will be conducting their inspections, such as but not limited to, inspecting entities that may be more likely to be out of compliance or focusing on large generators.
6143	Drane, N., County of Sacramento	See proposed language. The proposed time frames are too aggressive. The Operational Record will be significant in size. It will likely take jurisdictions more than a day to make it available. Additionally, 30 days to compile such records from the wide variety of sources is not feasible.	CalRecycle has revised section 18995.1 in response to this comment. Section 18995.1 now allows ten business days for a jurisdiction to provide access to the Implementation Record when requested by the Department and allows records and information to be included in the Implementation Record within 60 days.
6144	Drane, N., County of Sacramento	see proposed language. 90 Days is insufficient for Jurisdictions to complete modification of local ordinances. 180 days is a reasonable time frame.	CalRecycle has revised section 18996.1(e) in response to this comment. The change increases the relevant timeline to 180 days.
6145	Drane, N., County of Sacramento	proposed language: "If Department staff investigate or take enforcement action against any entity residing or conducting business in a Jurisdiction, Department staff	A change to the regulatory text is not necessary. The Department may take enforcement action against an entity when the jurisdiction has failed to enforce and after the provisions in Section 18996.3 (a)(1) and (a)(2) are met.

Comment Number	Received From	Question/Comment	Response(s)
		<p>must disclose specifically, prior to investigating or taking enforcement action, that they are not acting on behalf of the Jurisdiction."</p> <p>If CalRecycle staff interject enforcement into the relationship between the Jurisdiction and its customers, or between Franchisees and their customers, the potential for damage to that customer - service provider relationship will occur. That damage must be mitigated as much as possible by complete disclosure of the nature of the enforcing party.</p>	<p>Section 18996.3 states the Department will notify the jurisdiction prior to taking enforcement action against an entity. The Department will take enforcement action on an entity if the jurisdiction fails to do so. The notice will include a general description of the grounds for the Department's action. A jurisdiction can prevent the Department from taking enforcement action against entities under the jurisdictions authority by adhering and enforcing the regulations as required.</p>
6146	Drane, N., County of Sacramento	<p>see proposed language</p> <p>SB 1383 adopted legislation does not require jurisdictions to adopt ordinances to penalize generators; rather it "authorizes" jurisdictions. Therefore, we suggest changing the "shall" to "may." Further, we ask you rethink the negative-toned approach to these four articles and return with an approach in which the State facilitates positive, market-based incentives that lead to funding and siting new and enlarged organics diversion facilities and/or increased financial support for local organics recycling efforts. The types of behavior changes required to implement effective organics programs provokes strong emotional reactions from some members of the community. People will react to the proposed citations and fines in negative ways that will make it more difficult for us to get across the message that organics diversion behavior is the "new normal." Considerably more state-wide public understanding of the issues driving the need for higher levels of organics recycling is needed. Coercive, punitive approaches are not the path to gaining the public cooperation needed to realize the goals set in SB 1383.</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring "local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance."</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .'. The [administrative agency] is authorized to "fill up the details" of the statutory scheme."</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
6147	Drane, N., County of Sacramento	<p>see proposed language</p> <p>Definitive language creates untenable situations where Jurisdictions have no enforcement flexibility. Financial penalties are excessive. We suggest, “shall” be changed to “may” and add qualitative language that allows Jurisdictions to focus enforcement efforts on parties insistent on flaunting rules. SB 1383 adopted legislation does not require jurisdictions to adopt ordinances to penalize generators; rather it “authorizes” jurisdictions. Therefore, we suggest changing the “shall” to “may.”</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p>

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			<p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
6148	Drane, N., County of Sacramento	Delete: Property owner or business owner fails to provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and proper sorting annually, as prescribed by this section. It's too difficult for a jurisdiction to inspect/verify if they provided the information annually or not.	<p>The penalty tables containing the language the commenter is referring to were deleted from the proposed regulations.</p> <p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
6149	Drane, N., County of Sacramento	re 18997.2 Delete: Organic waste generator, that is a commercial business, fails to provide in all areas where disposal containers are provided for customers. 1st	<p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>violation = Penalty Level 1 (\$50-\$100/violation). 2nd violation =Penalty Level 1 (\$50-100/violation). 3rd violation =Penalty Level 2 (\$100-\$200/day). It's too difficult, onerous and costly for a jurisdiction to inspect/verify if they provided the containers in all areas where disposal containers are provided for customers. It's also too difficult for a jurisdiction to determine the exact number of days they are in violation of this requirement, so it should be a per violation instead of per day penalty. It's too difficult for a jurisdiction to verify that a generator failed to periodically inspect their own containers and inform employees. Even if they continue to get a contamination penalty, maybe they still did periodically inspect their own containers and inform employees but the employees are still not sorting properly.</p>	<p>by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
6150	Drane, N., County of Sacramento	<p>re 18997.2: Tier One and Tier Two commercial edible food generator fails to arrange to recover edible food and comply with this section...1st violation = Penalty Level 1 (\$50-\$100/violation). 2nd violation =Penalty Level 2 (\$100- \$200/violation). 3rd violation =Penalty Level 3 (\$250-\$500/violation). Modify so there's some allowance for if there is not an organization or service that wants the edible food that they generate. Commercial edible food generator shouldn't be penalized if local food recovery organizations or services don't have the capacity to collect/accept or the need for the edible food that the business generates.</p>	<p>Regarding the comment, “commercial edible food generator shouldn't be penalized if local food recovery organizations or services don't have the capacity to collect/accept or the need for the edible food that the business generates.” CalRecycle has revised Section 18991.3 in response to this comment. Section 18991.3 was revised to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. One of the extraordinary circumstances specified is a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. Therefore, if a jurisdiction has failed to increase edible food recovery capacity as is required by the edible food recovery capacity planning section of the regulations (Section 18992.2), then commercial edible food generators located in that jurisdiction are not required to comply with the requirements of Section 18991.3 as long as they can demonstrate that the jurisdiction has failed to comply with SB 1383’s edible food recovery capacity planning requirements. However, the regulations also specify that the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. CalRecycle would also like to note that SB 1383 requires jurisdictions to implement edible food recovery programs, which includes the requirement that a jurisdiction shall increase edible food recovery capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs. The regulations are structured so that jurisdictions will be required to begin edible food recovery capacity planning in 2022.</p>
6151	Drane, N., County of Sacramento	<p>Reduce fine levels and make them per year instead of per day. If procurement targets are annual, it is not appropriate to calculate the fine on a per-day basis. Example: a city fails to meet its annual procurement goal by 1,000 CY. Is the fee charged per day until the city procures the additional 1,000 CY? Is it retroactive? If the city has to during the next enforcement year, and doesn't meet the target again because of attributing the 1,000 CY to the previous year, is the fine assessed again for the next year? This could lead to a never-ending string of fines. Alternatively, are the fines automatically set to cover a full year, until the city reports for the following year, making the minimum fine \$182,500?</p>	<p>CalRecycle has revised section 18997.3 in response to this comment. The penalty levels have been modified for procurement violations in response to comments.</p>

Comment Number	Received From	Question/Comment	Response(s)
6152	Drane, N., County of Sacramento	<p>re: 20700.5 - delete: (a) Compacted earthen material at least 36 inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 30 months to control methane emissions.</p> <p>(1) The EA may approve, with concurrence by the Department, an alternative long-term intermediate cover if the operator demonstrates that the alternative is equivalent to 36 inches of earthen material.</p> <p>The proposed amendment is not necessary for two reasons; the definition of intermediate cover already exists in 27 CCR and the control of landfill methane emissions is already regulated via 17 CCR.</p> <p>CalRecycle has created a new definition “Long Term Intermediate Cover” that is not necessary, as Intermediate Cover is already defined in existing regulation 27 CCR section 20700 as “...all surfaces of the fill where no additional waste will be deposited within 180 days...”. Additionally, methane emission control is already regulated via CCR 17 section 95460 et. seq. The purpose of existing regulation 17 CCR Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 6 is to reduce methane emissions from municipal solid waste (MSW) landfills pursuant to the California Global Warming Solutions Act of 2006 (Health & Safety Code, Sections 38500 et. seq.). Provisions of this regulation establish surface emission testing criteria, methane emission thresholds and regulatory requirements to meet the established thresholds.</p> <p>There has been no scientific or engineering justification for increasing the long-term intermediate cover from the current 12 inches to 36 inches. Methane emissions are already regulated at landfills including monitoring requirements. If the rationale for this increase is to control methane, there has been no indication that the current 12 inches is not sufficient and, in addition, Health and Safety Code 39730.6 states that “the state board shall not adopt, prior to January 1, 2025, requirements to control methane emissions associated with the disposal of organic waste in landfills other than through landfill methane emissions control regulations.” Doubling the amount of cover is a divert funds from program implementation with no added benefit. This provision should revert to the current 12 inches. The imposition of a new definition with additional requirements placed on landfill operators is superfluous and does not benefit the environment or public health. The aforementioned existing regulations are already in place to protect the environment and public health. The proposed amendment increases the threat to the environment and public health by jeopardizing the long-term sustainability of landfill post closure maintenance due to the increased financial burdens associated with compliance of the unnecessary proposed section.</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>
6153	Drane, N., County of Sacramento	<p>20750.1. CalRecycle– Organic Waste Handling</p> <p>proposed language: For the purposes of the section, “expanding” means a solid waste landfill proposing to <u>significantly expand the permitted landfill refuse footprint or refuse design capacity</u>. (1) Changing the hours of operation of a landfill is not considered an expansion pursuant to 14 CCR Section 51</p>	<p>A change to the regulatory text is not necessary. 27 CCR Section 20750.1(c) defines the term “expanding” to mean a solid waste landfill proposing to make a significant change to the design or operation pursuant to 27 CCR 21665. As noted in Subdivision (c)(1), a significant change does not include a change in hours of operation of a landfill.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>20750.1(c). The proposed amendment effectively requires landfills to construct material recovery facilities (MRF) to recover organic materials, improve an existing MRF, or only accept waste from a high organic diversion waste processing facility if the landfill proposes to “expand”. An expansion is defined as making a significant change to the design or operation of the landfill pursuant to 27 CCR Section 21665. The definition of a “significant change to the design or operation” of a landfill is overly broad and may impose these requirements, and the associated increased costs, on landfills making minor changes that do not expand the design refuse footprint or capacity of the landfill. Existing facilities, which are not expanding their refuse capacity or footprint, may not have land available or the financial resources to construct or expand a MRF.</p>	<p>The purpose of this section is to require new or expanding solid waste landfills to implement an organic waste recovery activity for any waste received that has not been processed previously at a High Diversion Organic Waste Processing Facility or Designated Source Separated Organic Waste Facility. Organic waste recovery activities include (in addition to MRF’s), composting facilities or operations, in-vessel digestion facilities or operations, and other activities listed under Section 18983.1(b). Landfills that do not have available land or the finance to implement an organic waste recovery activity on-site have the option to transport the waste off-site to another facility where a recovery activity can take place.</p>
6154	Drane, N., County of Sacramento	<p>re 21695 (d): remove: The SIR shall be submitted to CalRecycle no later than 180 days from the effective date of this regulation. The disposal reductions created by increased diversion of organics will not have yet occurred, and the required analysis will be based on speculation by the engineer or certified engineering geologist who prepares the report. The current requirement for the JTD to be reviewed on 5-year intervals will be sufficient to allow for changes in a landfill’s operation</p>	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations This standard is not duplicative of a five-year review. The purpose of the SIR is to assist operators better understand the potential impact the proposed regulations could have on their landfill which is different than the five-year review. A five-year review is completed by the EA every five years from the last review and evaluates (among other things) the information provided in the application for the proposed facility to determine whether or not the facility will be able to operate in accordance with state minimum standards and permit terms and conditions.</p> <p>Whereas, the SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order properly implement any changes or modifications to the landfill in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p> <p>In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills.</p>
6155	Drane, N., County of Sacramento	<p>re: 17402 -- proposed language: “Consolidation Sites” means facilities or operations that receive solid waste for the purpose of <u>transferring waste to another solid waste operation or facility</u>, or storing the waste prior to transfer directly from one container to another or from one vehicle to another for transport and which do not conduct processing activities.</p>	<p>A change to the regulatory text is not necessary. The definition is necessary to distinguish sites that conduct processing from those that do not. Processing is defined in existing text and not part of this rulemaking process. The intent is not to add a new type of operation or facility but to clarify the type of facilities and operations that are not subject to facilities measurement or record keeping requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Consolidation activities include, but are not limited to, limited volume transfer operations, sealed container transfer operations, and direct transfer facilities. In our County, we see transfer facilities and processing facilities as two separate types of facilities. Processing facilities sort material to sell or create an end-product that can be sold. Transfer facilities temporarily store, move, and do minimal manual sorting (such as pick obvious containments out of source separated waste streams) prior to transferring the material to other processing or end-use facilities, such as landfills, compost facilities, or recovery facilities for recyclables. Therefore, we believe it is 1383's intent to consider a transfer facility that does not process material, except for the minimal amounts described) a "consolidated site," no matter the quantity handled per day, because the transfer facility would otherwise duplicate all regulatory requirements that is required of processing facilities. However, under the existing definitions of "consolidated sites" and "processing" our transfer station would not be defined a "consolidated site" because they do minimal manual sorting to remove large, obvious contaminants, as previously mentioned. For example, when source separated green waste is delivered, staff will manually pull out obvious non-green waste material, such as a bag of garbage, or a car axel, etc. We are concerned that the existing language for "consolidated sites" and "processing" does not allow for minimal manual removal of contaminants in source separated waste streams. We think CalRecycle would want staff to pull out obvious contaminates, rather than pass it on to the processing facility.</p>	
6156	Drane, N., County of Sacramento	<p>re: 17402 -- proposed language: "Processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines or volume reduction equipment. <u>This does not include manual removal of observable contaminants from source separated waste stream prior to transferring.</u> Recycling Center is more specifically defined in section 17402.5 (d) of this Article.</p> <p>In our County, we see transfer facilities and processing facilities as two separate types of facilities. Processing facilities sort material to sell or create an end-product that can be sold. Transfer facilities temporarily store, move, and do minimal manual sorting (such as pick obvious containments out of source separated waste streams) prior to transferring the material to other processing or end-use facilities, such as landfills, compost facilities, or recovery facilities for recyclables. Therefore, we believe it is 1383's intent to consider a transfer facility that does not process material, except for the minimal amounts described) a consolidated site," no matter the quantity handled per day, because the transfer facility would otherwise duplicate all regulatory requirements that is required of processing facilities. However, under the existing definitions of "consolidated sites" and "processing" our transfer station would not be defined a "consolidated site"</p>	<p>A change to the regulatory text is not necessary. The definition is necessary to distinguish sites that conduct processing from those that do not. Processing is defined in existing text and not part of this rulemaking process. The intent is not to add a new type of operation or facility but to clarify the type of facilities and operations that are not subject to facilities measurement or record keeping requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>because they do minimal manual sorting to remove large, obvious contaminants, as previously mentioned. For example, when source separated green waste is delivered, staff will manually pull out obvious non-green waste material, such as a bag of garbage, or a car axel, etc. We are concerned that the existing language for “consolidated sites” and “processing” does not allow for minimal manual removal of contaminants in source separated waste streams. We think CalRecycle would want staff to pull out obvious contaminates, rather than pass it on to the processing facility.</p>	
6157	Drane, N., County of Sacramento	<p>see proposed language. This section contains several requirements intended to quantify, on a daily basis, the amounts of organic waste at various process stages. The quantification is to be done using characterization sorts of one-cubic yard samples. We appreciate and agree with the goal of gaining better understanding of residue levels after processing. However, that goal can be achieved with less work and cost than the proposed approach to the science of sampling and analysis. We ask that CalRecycle rework this section with guidance from an expert who specializes in statistical science as it relates to learning useful information from sampling and analysis. We would expect this would lead to much smaller sample sizes and sampling only when needed to adjust for seasonality</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard.</p> <p>The sampling frequency 10 consecutive days was based on that 2 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 the “2014 Disposal-Facility- Based Characterization of Solid Waste in California”, 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% 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%, 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 2 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 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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” collections streams are reflected in the sampling. Based on the expert data 10 consecutive days was used instead of 14 to help minimize</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>concerns over frequency of sampling and cost to facilities associated with extra time, labor, space and other logistics required for the analysis and still get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
6158	Drane, N., County of Sacramento	<p>re 17409.5.7 -- remove:</p> <p>1)One load check shall be conducted for every 500 tons of source separated organic waste received per operating day...</p> <p>2) At least one random load check per day for each source sector as defined in Section 18815.2(a)(51)</p> <p>It is the processors advantage to create their own parameters/threshold of contamination allowed with the hauler and jurisdictions to help meet their level of acceptable contamination at their facility, and therefore, Cal Recycle does not need to enforce overly burdensome regulations to keep contamination low.</p> <p>We ask that CalRecycle to remove, or review and rework this section to better balance the amount of work required to generate the information against the value of the information gained from the work.</p> <p>The measurement and load checking comments above also apply to the similar proposed changes to:</p> <p>Title 14, Chapter 3.1, Article 5 (Composting Operation and Facility Siting and Design Standards – pages 79-80)</p> <p>Title 14, Division 7, Chapter 3.2, Article 2, Section 17896.25.1 (Load checking – Contamination in Source Separated Organic Waste – page 82)</p> <p>Title 14, Division 7, Chapter 3.2, Article 3, Section 17896.44.1 (Measuring Organic Waste in Residuals – page 83)</p> <p>Title 27, Division 2, Chapter 3, Subchapter 4, Article 4 (CalRecycle— Controls – page 86)</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
6159	Drane, N., County of Sacramento	<p>Section 17409.5.7</p> <p>proposed language: (3)The operator shall inform the hauler or jurisdiction of origin or jurisdiction’s designee of received loads with visible contamination <u>that have unusually high levels of visible contamination in received loads.</u></p> <p>This requirement would have the facility continually having to inform the haulers or jurisdiction, because even the most well intended generator will have some level of contamination. This requirement should only be triggered if there are unusually high levels of visible contamination in received loads.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid</p>

Comment Number	Received From	Question/Comment	Response(s)
			waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
6353	Dutra-Vernaci, C.,City of Union City	Enforcement and Recordkeeping: As currently drafted, the legislation is expected to impose a significant jurisdictional burden on program enforcement and recordkeeping. The amount of staff time that would be required to document all the detailed aspects of the Implementation Record take away from jurisdiction resources that could be used to educate and enforce the generator and hauler requirements. We recommend that CalRecycle reduce the number of reporting requirements and types of information required to what is necessary to determine compliance.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
6354	Dutra-Vernaci, C.,City of Union City	While we support the need to build urban compost markets throughout the state, it would be more effective to base procurement targets on the potential for compost use in a jurisdiction to build healthy soil, not a statewide estimate of organics generated per capita or current transportation fuel use. Procuring the amount of compost proposed in the regulations would result in more compost than could be used, and put an undue financial burden on cities. The City of Union City requests that the procurement regulations be addressed in a separate regulatory proceeding.	<p>The purpose for the procurement target methodology is to create a transparent method for local governments to create markets for products generated by organics recycling facilities that is proportional to the number of residents in a jurisdiction. California has over 400 diverse jurisdictions it is impractical, unnecessary, and it would be overly burdensome to account for each jurisdiction's soil organic matter content and to develop a procurement target and enforcement policy for each one. Furthermore, by only accounting for soil organic matter, the procurement target would eliminate options for jurisdictions to procure other recovered organic waste products, such as renewable transportation fuel. CalRecycle disagrees with a blanket requirement for all jurisdictions to use a certain amount of each type of material. For example, a jurisdiction may not have a use for compost. By requiring blanket usages for each product, jurisdictions may be forced into procuring products that may be incompatible with their local needs. The regulations as written allow jurisdictions the flexibility to procure products that fit their local needs.</p> <p>Regarding the proposal for a second regulatory proceeding, CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
9000	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	Article 2 Section 18983.1(b)(6)(B)(1) — This section delineates activities that are deemed to be "recovery" and thus a reduction in landfill disposal. This section includes biosolids land application and references Appendix B of the federal part 503 regulations, which stipulate technology and other standards for both Class B and Class A pathogen reduction necessary for land application. The language in this section of the draft regulatory text, however, specifies only anaerobic digestion and compost as recovery activities. Appendix B provides detail on a suite of Class B and	CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO ₂ e per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.

Comment Number	Received From	Question/Comment	Response(s)
		<p>Class A pathogen reduction technologies, including far more options for achieving each Class, all of which are deemed equivalent to anaerobic digestion or composting under the part 503 regulations and should be deemed equivalent as "recovery" and reduction in landfill disposal. Greenhouse gas reduction achieved via land application rather than landfilling is the same regardless of the technology employed to meet the pathogen reduction and vector attraction reduction criteria. The methane reduction is realized in the avoidance of landfilling not by the process utilized to treat the biosolids. While it is true that most biosolids in California undergo either anaerobic digestion and/or composting, other compliant technologies are also utilized and entities should not be penalized for using them. CASA strongly urges CalRecycle to replace the words ". . . anaerobic digestion or composting. . ." With "...one of the processes..." In support of this argument, please refer to the BEAM model at this link: https://casaweb.org/wp-content/uploads/2015/12/1BrownetalEST-GHGCalculator10.pdf which has been adopted by the Canadian Ministries of the Environment as a means to quantify the climate change mitigation benefits of biosolids land application.</p>	<p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.</p>
9001	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	<p>Article 2 Section 18983.1 (c) — This definition of landfill includes ". . .export out of California for disposal, or any other disposal of waste as defined by Section 40192(c) of the Public Resources Code." This is a very broad definition that could be construed to limit the safe application of biosolids to land, within or beyond state boundaries. We believe this is an overly restrictive definition that may create confusion because of the inclusion of technologies other than landfilling in the definition of landfill (by virtue of the cross-reference to Public Resources Code Section 40192(c)). We request that CalRecycle clarify the scope of this definition. (See comment three below as well.)</p>	<p>It is unclear from the comment what "technologies" the commenter is referring to or what clarity they are seeking as to the scope of this section. To the extent the comment is addressing land application of compostable material, that activity is specifically identified as a reduction in landfill disposal if it meets the conditions of the section. To the extent the comment is addressing surface disposal sites at wastewater treatment plants, that would be considered landfill disposal under this section unless it meets the requirements of land application of biosolids under this section or qualifies as an alternative technology that constitutes a reduction in landfill disposal under Section 18983.2.</p>
9002	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	<p>Article 6 Section 18987.2(a)(1)- The language requires all biosolids produced at any wastewater treatment plant to be treated via anaerobic digestion and/or composting and sent for land application. In addition to other treatment technologies as mentioned in comment one above, there are also other end uses employed which would be disallowed under this requirement. Similarly, it is imperative that all treatment options in 40 CFR part 503 Appendix B (Class A and Class B) be allowed and viewed as "recovery," not just anaerobic digestion and composting. We recommend all treatment technologies specified in Appendix B of 40 CFR part 503 which result in land application or land reclamation should be counted as a reduction in landfill disposal. Existing biosolids management practices whereby biosolids do not leave the site should be excluded from these regulations, and emerging technologies that may result in fuel or energy production, and do not send any biosolids to a landfill, should be encouraged.</p>	<p>Comment noted. Section 18987.2 was removed from the regulations. The regulations do not ban any organic waste stream from landfills. This is prohibited in statute and it is therefore unnecessary to explicitly articulate this.</p>
9003	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	<p>Article 9 Section 18990.1 (c)(3) seems inconsistent with the language added to Section 18990.1(a and b) which restricts local ordinances such that they may not impede organics recycling. Sub (c)(3) seems to supercede that restriction. Clarity or</p>	<p>A. The requested changes to the regulatory text are not necessary. However, CalRecycle is adding additional language to Section 18990.1(b)(1) to further clarify its meaning in light of comments received regarding it. Article 9, Sections 18990.1 (a) and (b) are not contradictory. 18990.1 (a) clarifies that it does not limit a jurisdiction in adopting more stringent standards than</p>

Comment Number	Received From	Question/Comment	Response(s)
		revision of this language is requested to ensure an open market across California for organics recycling.	<p>the ones outlined in this chapter. The purpose of the specific limitations set forth in paragraphs 1-5 of 18990.1 (b) are to ensure that jurisdictions do not impose restrictions on the movement and handling of waste and waste-derived recyclables that would interfere with or prevent meeting the organic waste recovery targets established in SB 1383.</p> <p>B. Article 2, Section 18983.1 (b)(6)(b) clarifies that land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards. 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. While this regulation defines land application as 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 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. The additional language will ensure that such restrictions can be reviewed on a case-by-case basis to determine if they are actually necessary and tailored to protect the public health and safety, or if they are actually unnecessary and overbroad restrictions.</p>
9004	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	Sub (f)(1) stipulates that compost is an eligible product. We assume this includes biosolids compost but request explicit confirmation of that. Furthermore, there are many other biosolids products which should be considered as eligible recovered organic waste products. A jurisdiction should be given broad latitude in meeting this requirement, and all biosolids products meeting the land application requirements of 40 CFR part 503 should be eligible.	The current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B)). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target. However, CalRecycle disagrees with adding "other biosolids products". The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.
9005	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	Sub (f)(2) stipulates that renewable transportation fuel is also an eligible recovered organic waste product. While we support the intent of this requirement to help create end markets, we question the definition of Renewable Transportation Fuel in Article 1 18982(a)(62), which requires the fuel be derived ". . . from organic waste diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste." Does this exclude renewable transportation fuel which is derived from sewage sludge anaerobic digestion alone, without co-digestion? We trust that is not the intent, since anaerobically digesting sewage sludge, land applying the resultant biosolids, and producing low carbon transportation fuel is certainly consistent with the requirements of SB 1383 and these regulations. All sewage sludge which is anaerobically digested could be considered to be diverted from landfills. Please clarify whether the intent of the language is to include all sewage sludge and co-	CalRecycle disagrees with the commenter's argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction's procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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. For the reasons noted above, gas generated from the inflows of a sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.

Comment Number	Received From	Question/Comment	Response(s)
		<p>digested materials under this eligibility requirement. Alternatively, we respectfully request this definition be amended to read: ". . . gas derived from organic waste processed in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23."</p>	<p>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.</p>
9006	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	<p>Sub (f)(2) — We also request that any other beneficial uses of methane be deemed eligible to qualify as fulfilling the procurement obligations. This includes pipeline injection for sale as a non-transportation fuel, on-site power production and exported electricity, as well as the production of renewable transportation fuel. All should be deemed to be recovered organic waste products and eligible to satisfy the procurement requirements.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>

Comment Number	Received From	Question/Comment	Response(s)
9007	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	CalRecycle should include procurement of bioenergy and compost from diverted organic waste by the State of California. We recommend the proposed regulations be broadened to include procurement by the State in addition to local governments. This will help to achieve the requirements of SB 1383 in the most expeditious and cost effective manner.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
9008	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	The proposed regulations should explicitly authorize diverted organic waste projects that were constructed prior to the adoption of the regulations. To avoid ambiguity, the proposed regulations should explicitly grandfather eligible bioenergy and compost projects constructed prior to adoption of the regulations. The proposed regulations do not explicitly do so now and it is important to ensure that early adopters of organic waste diversion projects are not penalized.	Grandfathering pre-existing operations as technologies that constitute diversion from landfill disposal may not ensure methane reduction.
9009	EBMUD (Chakrabarti, A., East Bay Municipal Utility District)	2014 Waste Characterization Study- Please confirm that this study has been updated to include biosolids data from 2014, since this serves as the baseline upon which compliance with the draft regulations is based.	The 2014 waste characterization was one source of data used to determine the baseline level of organic waste disposal in the year 2014. The 2014 waste characterization study was produced prior to the adoption of SB 1383 in 2016. The waste characterization study is an estimate based on surveys, CalRecycle has not claimed that the study represents an exact or perfect number of organic waste disposal tons that occurred in California in 2014; however, the study represents the

Comment Number	Received From	Question/Comment	Response(s)
			<p>most comprehensive estimate of waste disposal for California in 2014. The same study is also relied upon to set targets for AB 1826 which has a 2014 baseline linkage as well. CalRecycle's use of the 2014 study for the 1826 targets was public prior to the adoption of SB 1383. There is no evidence that the Legislature intended that CalRecycle take a different course and disregard the body of evidence compiled in the waste characterization study.</p> <p>However, CalRecycle did not solely rely upon the waste characterization study. CalRecycle supplemented the waste characterization study data with data from the Disposal Reporting System (now the Recycling Disposal and Reporting System) regarding disposal of organic waste as alternative daily cover (ADC) or alternative intermediate cover (AIC). CalRecycle additionally relied upon data provided by the wastewater industry regarding the disposal of biosolids including the disposal of biosolids as ADC and AIC.</p>
3151	Edminster, D.	1. Section 42652.5(a)(3) states that there is no numeric waste disposal limit for individual landfills. So, my question is whether landfills may continue to accept self-haul deliveries of organic waste from individual property owners and businesses, such as landscape services?	Yes. Nothing in the regulations prohibits this from occurring.
3152	Edminster, D.	2. Does SB 1383 apply to non-MSW, namely organic agricultural waste, and may landfills continue to accept this waste for disposal?	The regulations define organic waste by material type. The regulations do not define organic waste by source sector. Jurisdictions are required to provide organic waste collection services to generators subject to their authority, however as noted in the regulations, nothing prevents generators from managing their own organic waste on site (e.g. on-farm composting). Additionally jurisdictions may waive generators from collection requirements if they generate de-minimis amounts of organic waste for collection.
3153	Edminster, D.	3. If I understand correctly, SB 1383 uses tons of disposal in the year 2014 as the baseline, with a mandate to reduce that figure by 75% by the year 2025. Thus, if a jurisdiction disposed 100,000 tons of organics in 2014, it would need to divert 75,000 tons and reduce disposal to 25,000 tons by the year 2025. Do I have that right? Also, can these tonnage figures be adjusted to account for population growth and economic expansion since 2014?	Comment noted. The comment relates to the statutory language in SB 1383 rather than the regulatory text or the regulatory process.
11	Edwards, D, Air Liquide Hydrogen Energy	We are requesting that regulations continue to support all options for renewable hydrogen supply by continuing to enable landfill gas as a transportation fuel feedstock across CalRecycle programs. In the attachment to this document, we have further information to support this position.	The SB 1383 mandate is to recover organic waste that would be disposed. Generating gas in municipal solid waste landfills requires disposal of organic waste in landfills; therefore it is inconsistent with statute to incentivize or mandate activities that do not reduce landfill disposal.
12	Edwards, D, Air Liquide Hydrogen Energy	The proposed SLCP Regulations are clearly an outcome of substantial efforts made by the staff to address concerns and comments raised in previous workshops. We applaud the staff's efforts and creativity in seeking long-term solutions and in their consideration of industry inputs over the life of this program. As originally conceived, the Legislature specifically directed CalRecycle to comply with a number of conditions in developing the regulatory requirements. including: Support cost-effective, and environmentally beneficial uses of biomethane derived from solid waste facilities and it is noted that The SLCP Strategy states that transportation fuel represents the highest value use of biomethane.	Thank you for your comment. CalRecycle agrees that procurement will be an important part of meeting SB 1383's organic waste diversion goals.

Comment Number	Received From	Question/Comment	Response(s)
13	Edwards, D, Air Liquide Hydrogen Energy	We ask the CalRecycle to continue to consider all reduced carbon pathways to meet the renewable requirements in it's programs and not to invoke limitations on landfill gas as an eligible feedstock in hydrogen production for transportation fuels.	The SB 1383 mandate is to recover organic waste that would be disposed. Generating gas in municipal solid waste landfills requires disposal of organic waste in landfills; therefore it is inconsistent with statute to incentivize or mandate activities that do not reduce landfill disposal.
6246	Eggemeyer, J., County of San Mateo	Please provide examples of "food service distributors" as you have for "food recovery organization," "large event," "large venue," and others.	<p>In a previous draft of the regulations, food service providers and food distributors were included under one definition. The term used to identify these entities was "food service distributor." Due to this definition lacking clarity, a commenter asked CalRecycle to provide examples of "food service distributor." Another commenter recommended that the term "food service distributor" be removed from the regulations and that separate definitions for "food distributor" and "food service provider" be used instead.</p> <p>CalRecycle revised the regulatory text in response to these comments. Recognizing that food distributors and food service providers have different functions in the food supply chain and often perform very different roles, the term "food service distributor" was removed and replaced with two separate definitions; one definition for "food distributor," and a separate definition for "food service provider." The final definitions are below:</p> <p>"Food distributor means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores."</p> <p>"Food service provider means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations."</p> <p>Please note that specific names of companies that meet these definitions were not included in the regulations.</p>
6247	Eggemeyer, J., County of San Mateo	Please provide guidance on how to determine if a grocery store is 7,500 sf or larger as well as how to determine if a restaurant exceeds 5,000 sf. Clarification is needed as to whether this is gross or net square footage (e.g. does it include storage areas, restrooms, etc.).	<p>CalRecycle revised the threshold for grocery stores from 7,500 square feet to 10,000 square feet. This change was made in an effort to have the threshold align with environmental health inspections of grocery stores, so that these commercial edible food generators can be more easily identified by the jurisdiction through their local environmental health department's food facility permit records. The same methodology could be used to help identify restaurants that meet the 250 or more seats or total facility size equal to or greater than 5,000 square feet threshold.</p> <p>In regard to the commenter's question about gross or net square footage, the precise language used in the regulations is a "grocery store with a total facility size equal to or greater than 10,000 square feet. This includes storage areas and restrooms. The same is true for restaurants. Restaurants with 250 or more seats or a total facility size equal to or greater than 5,000 square feet are required to comply with the commercial edible food generator requirements.</p>
6248	Eggemeyer, J., County of San Mateo	Please provide clarity on the definition of "food" in the context of SB 1383. For example, chocolate, candy, alcoholic beverages, and chewing gum are considered edible food per the Health and Safety Code but are not substances food banks and other food recovery organizations wish to redistribute in their programs	<p>SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute does not state that 20% of healthy or nutritious food must be recovered. As a result, SB 1383's regulations do not include requirements that only certain types of food be recovered. Commercial edible food generators must arrange to recover the maximum amount of edible food that would otherwise be disposed. If a food recovery organization or service does not want certain foods because the food does not meet the organization's nutrition standards, then the food recovery organizations does not have to accept the food. Please note that there is nothing in SB 1383's regulations that prohibits a food recovery</p>

Comment Number	Received From	Question/Comment	Response(s)
			organization or service from refusing to accept edible food from a commercial edible food generator.
6249	Eggemeyer, J., County of San Mateo	Section 18984.1. Three-Container Organic Waste Collection Services: Please refine the definition of "non-compostable paper"-does it include drink containers, paper plates and cups, or is it primarily for aseptic packaging (e.g. Tetrapak). A clearer definition could be: Plastic-coated paper is a coated or laminated composite material made of paper or paperboard with a plastic layer or treatment on the surface or within the layers.	The definition includes paper covered in any plastic material that won't break down in the composting process. Wax coatings on paper drink containers, for example, are compostable.
6250	Eggemeyer, J., County of San Mateo	Section 18984.1. Three-Container Organic Waste Collection Services: Please clarify how bioplastics fit into the new recycling and composting processes and provide a definition for bioplastics as not all bioplastics are biodegradable.	CalRecycle generally supports processes that could help increase participation and capture rates, but SB 1383 provides that the intent of these regulations is to reduce the disposal of organic waste that generate methane in landfills. Bioplastics are generally not considered an organic waste and therefore is outside the purview of these regulations. In addition, bioplastics are designed to degrade in an aerobic composting environment but these regulations are not limited to just composting.
6251	Eggemeyer, J., County of San Mateo	Section 18984.5 Container Contamination Minimization - Due to the added cost for conducting route reviews, the County requests that the timeframe for conducting route reviews of all routes be extended from quarterly to once or twice a year.	Thank you for the comment. CalRecycle modified the regulations to be annual. For clarity, the regulations allow the jurisdictions to determine random selection, which is the least costly and burdensome approach compared to requiring statistically significant sampling.
6252	Eggemeyer, J., County of San Mateo	Section 18984. 7 Container Color Requirements The County requests that the responsibility for providing carts lie with the hauler instead of the jurisdiction.	Article 1, Section 18981.2 allows for jurisdictions to designate responsibility for providing containers to its hauler.
6253	Eggemeyer, J., County of San Mateo	Section 18984.8 Container Labeling Requirements The County supports grandfathering existing carts in the proposed labeling requirements. Alternatively, the County also supports switching to a phase-in approach to only include carts that are broken or have deteriorated. Currently, labels do not stick to carts in the SBWMA service area; instead, the carts have embedded labels. Relabeling the carts would require replacing them all resulting in significant additional costs.	The regulations provide that a jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal public rulemaking process to accommodate the various types of labels jurisdictions currently use on their containers. Stakeholders indicated that

Comment Number	Received From	Question/Comment	Response(s)
			<p>these types of labels are effective and durable. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>A change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
6254	Eggemeyer, J., County of San Mateo	Section 18986.1 Non-Local Entities Requirements The County requests that vegetarian pet waste be allowed to be collected in a green container (e.g. waste from rabbits, hamsters, etc.)	<p>If the Local Enforcement Agency determines that a material type cannot be safely recycled, then a jurisdiction would be allowed to list that material as not acceptable. Additionally, during the informal workshops many other stakeholders stated that they have programs for these material types. Further human and pet waste are not required to be measured as organic waste for the purpose of measuring contamination in 18984.5. With respect to human and pet waste, a jurisdiction may prohibit human waste in the green or blue container in a 3-container system and in the green container in a 2-container system. This change is necessary in order to support jurisdiction efforts to minimize public health impacts.</p> <p>This revision does not apply to pet waste, as many jurisdictions collect manure and take this material to processing facilities that have to meet pathogen reduction requirements.</p>
6255	Eggemeyer, J., County of San Mateo	Section 18986.1 Non-Local Entities Requirements - There is an inconsistency between the requirements for non-local entities and other entities. For example, the prohibition on pet waste in green containers is only specified for non-local entities.	Thank you for the comment. CalRecycle amended the applicable sections for consistency.

Comment Number	Received From	Question/Comment	Response(s)
6256	Eggemeyer, J., County of San Mateo	The County does not have a franchise in rural areas due to the limited customers in these areas nor does it qualify as rural exempt due to the overall population numbers. Additionally, there are three areas that are considered special districts in which the County does not receive franchise fees nor manage the garbage franchise agreements for, and two more areas that are part of a city franchise agreement. There are only two unincorporated areas that the County manages the franchise for	A change to the regulatory text is not necessary. It is possible that the areas referenced here would fall in low population waivers. Pursuant to 18988.1, a County will have to initiate some type of authorization to collect organic waste in rural areas that do not have a franchise.
6257	Eggemeyer, J., County of San Mateo	The County cannot increase the franchise fee for the entire unincorporated area as this would be a Proposition 218 violation. How is the County expected to assess a fee for these programs or demonstrate other means of financially supporting the expansion of organic recycling for all of the unincorporated areas? Proposition 218 restricts property-related fees, defined as fees imposed "as an incident of property ownership." Is it possible for the County to charge a fee on all organic tons processed within the service area? This would be similar to the AB939 fee imposed at the landfills for all tons disposed. If so, please add this language to the regulations.	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
6258	Eggemeyer, J., County of San Mateo	Regarding "other funding mechanisms," please provide additional clarity as to what other mechanisms could be.	A change to the regulatory text is not necessary. A change is not necessary because the regulations do not specify how the jurisdiction must fund its program. A jurisdiction might fund programs through a variety of means, including grants, partnerships, franchise fees, local assessments, etc.

Comment Number	Received From	Question/Comment	Response(s)
6259	Eggemeyer, J., County of San Mateo	Although there is language around funding for the edible food recovery program and organic waste recycling capacity planning, we did not find any language in the regulations allowing for funding mechanisms related to reporting and enforcement. Is the expectation that the Local Enforcement Agencies will be required to conduct these tasks under AB 939?	Local Enforcement Agencies are not expected to oversee Chapter 12 of the regulations. It is beyond their statutory authority and duties.
6260	Eggemeyer, J., County of San Mateo	The County finds that the requirement that generators contract with recovery organizations the most important and innovative aspect of the Edible Food Recovery Program legislation. We encourage CalRecycle to continue to keep this requirement as the program will be impossible to implement without such a requirement.	A change to the regulatory text was not necessary because this comment is in support of SB 1383's commercial edible food generator requirements.
6261	Eggemeyer, J., County of San Mateo	Please provide guidance on how to tell if an edible food generator has "intentionally" allowed food to spoil and thereby preventing it from being recovered.	To clarify, an example of intentionally spoiling edible food would be if a commercial edible food generator placed edible food that could be recovered for human consumption into a dumpster and then poured bleach or some other substance over the edible food to render it inedible. There are examples of businesses practicing this kind of activity to prevent individuals from taking food from dumpsters and consuming it. Since some commercial edible food generators do intentionally spoil edible food that could be recovered for human consumption, CalRecycle added language to Section 18991.3(e) stating that a commercial edible food generator shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or service.
6262	Eggemeyer, J., County of San Mateo	Due to lack of resources for inspection and enforcement, the County requests extending the timeframe for issuing notices of violation from 60 days to 90 days to allow for more flexibility.	A change to the regulatory text is not necessary. Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if there are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction issues a NOV. Extending this time frame would allow the entity to be non-compliant an additional 30 days. Once the jurisdiction issues a NOV, it must follow up within 90 days. This subsection conforms to the Departments general procedure of written notices of potential failure and a reasonable timeframe for remedy.
6263	Eggemeyer, J., County of San Mateo	Please clarify whether or not administrative citations would qualify as a Notice of Violation. If not, the County requests that the language in the regulations be changed to reflect this distinction as the County issues administrative citations and the time frame for compliance is different than proposed in the regulations.	A change to the regulatory text is not necessary. The Chapter allows a jurisdiction the flexibility to fulfill its oversight role by adopting their own enforceable ordinances and enforcement timeframes. A jurisdiction has the discretion to name the process of issuing a Notice of Violation anything it finds appropriate but the process must adhere to the standards and procedure and also be equivalent or more stringent as the process outlined in the regulations.
6264	Eggemeyer, J., County of San Mateo	To ensure that the legislation is implemented effectively and consistently, the County requests that CalRecycle provide cities and counties with the following tools and resources: o A sample ordinance cities and counties can adopt o A system for sampling route reviews o Clear instructions for how to fulfill recordkeeping requirements o A method for calculating a jurisdiction's edible food recovery capacity o Funding	Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.
6265	Eggemeyer, J., County of San Mateo	The requirements for enforcement, outreach, and reporting will place a significant financial and staffing burden on local jurisdictions.	Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to

Comment Number	Received From	Question/Comment	Response(s)
			impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6266	Eggemeyer, J., County of San Mateo	Please clarify the language for special districts (e.g. a sanitary district, LAFCO) located in unincorporated county areas which manage these types of franchises with a waste hauler. Who is responsible for complying with these regulations? If the County is responsible, language is needed for these types of districts to report and comply with the jurisdictions doing the reporting and enforcement.	In response to this comment, CalRecycle defined a “special district” as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a “special district that provides solid waste collection services” is a jurisdiction. Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction’s regulations related to solid waste. The definition of “non-local entity,” lists special districts as an example of a type of entity that could be a “non-local entity” but it does not definitively state that all special districts are non-local entities. Any special district that is a “jurisdiction” and also a “non-local entity” generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3. CalRecycle revised the definition of ‘jurisdiction’ in Section 18982(a)(36) because the original term “handling” as used in the definition is overly broad. This change is necessary to provide clarity.
3316	Elliott-McCrea, W., Second Harvest Food Bank Santa Cruz County	<p>Financial and nutrition considerations</p> <ul style="list-style-type: none"> • The State, local jurisdictions and food banks will only be able to achieve this goal with appropriate investment in capacity building and physical infrastructure to increase the volume of food can receive, store and distribute. • In addition, jurisdictions must be able to fund these food recovery activities through avenues such as franchise fees and local assessments. • It is important that we have an extremely limited budget. We must be diligent in creating ongoing partnership that do not risk our ability to sustain food bank services. Food Banks need to be able to refuse food donations. • Please note that our core mission is to increase access and consumption of nutritious food for families, children, seniors and others, so that they can have healthier lives. • Unhealthy diets and related chronic disease leads are one of the largest barriers to children growing up healthy and successful. We divert as much unhealthy food that we recover as possible for animal feed and work with a number of ranchers directly. We look forward to the City of Watsonville to enhance its composting capacity so that our increased recovery efforts do not result in larger garbage bills for the food not fit for animal food. We cannot afford these extra costs and they would curtail our ability to be more aggressive in our food recovery work. • What I am saying is that fundamental to this work is recognition that our participation is voluntary in regard to which edible food waste generators meet our standards for edibility and healthy nutrition. 	A change to the regulatory text was not necessary because the commenter did not make recommendations to revise the text. CalRecycle recognizes that there is a lack of sustainable funding for food rescue infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included in the section to encourage jurisdictions to establish a sustainable funding source to help fund their local food recovery programs. CalRecycle would also like to mention that CalRecycle has a food waste prevention and rescue grant program that funds food waste prevention and food rescue projects in California. To date, CalRecycle has awarded 20 million dollars to over 60 grantees. CalRecycle also recognizes that a core value of many food recovery organizations and services is to reduce food insecurity in their communities by rescuing and distributing healthy and nutritious food to help feed people in need, and that some organizations have nutrition standards for the food they are willing to accept. To help address this, the final regulations include a provision in Section 18990.2 that states, “Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible generator.” As a result, food recovery organizations and food recovery services are not mandated to accept food. In addition, the final regulations require commercial edible food generators to establish contracts or written agreements with food recovery organizations or services. However, there is no requirement in SB 1383’s regulations mandating food recovery organizations and food recovery services to enter into contracts or written agreements with commercial edible food generators. Food recovery organizations and food recovery services can choose not to participate. If a

Comment Number	Received From	Question/Comment	Response(s)
			commercial edible food generator approaches a food recovery organization or a food recovery service requesting a contract or written agreement, it is at the discretion of the food recovery organization or the food recovery service to determine if they want to enter into such contract or agreement. It is also at the discretion of food recovery organizations, food recovery services, and commercial edible food generators to determine the specific language that will be included in their contracts or written agreements for food recovery.
3317	Elliott-McCrea, W., Second Harvest Food Bank Santa Cruz County	Funding mechanisms recognize that 1. A large share of the costs associated with increasing the capacity for food rescue will be for labor and physical infrastructure costs associated with coordinating the additional food, 2. Recovery activities pursuant to SB 1383's goal will nearly always augment work already being done with a mixture of existing and new capacity (staff, cold storage, vehicles, fuel and other fixed costs), and therefore funding should not be restricted to incremental pounds of food.	CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included in the section to encourage jurisdictions to establish a sustainable funding source to help cover their program implementation costs. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed. CalRecycle would also like to clarify that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.
3318	Elliott-McCrea, W., Second Harvest Food Bank Santa Cruz County	It is imperative that CalRecycle and local jurisdictions exempt the 'nonprofit charitable organizations' (food banks and their non-profit partners) from fees and penalties related to their own waste incurred during compliance with SB 1383 as long as they are accepting donations with the intention to distribute the food for consumption. As the stream of donations increases, there may be more instances where food is not handled safely or as represented and if the non-profit charitable organizations are to help get this food out, it is important that they not be penalized for attempting to solve the overall problem.	Nothing in SB 1383's regulations requires a food recovery organization or a food recovery service to accept edible food. Section 18990.2 of the regulations states, "(d) Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator." If a food recovery organization or service cannot safely collect and distribute food because it is at maximum capacity, then it should not be collecting any more food. In addition, nothing in SB 1383's regulations requires food recovery organizations and food recovery services to enter into contracts or written agreements with commercial edible food generators. Food recovery organizations and food recovery services can choose not to participate. If a commercial edible food generator approaches a food recovery organization or a food recovery service requesting a contract or written agreement, then it is at the discretion of the food recovery organization or the food recovery service to determine if they want to enter into such contract or agreement. A food recovery service or organization may wish to consider any costs associated with recovering additional food when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator, thus subjecting them to a potential increase in costs. Please note, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing specifications in their contracts or written agreements with commercial edible food generators.
3319	Elliott-McCrea, W., Second Harvest Food Bank Santa Cruz County	Reporting requirements The reporting requirements as written are simply unworkable as they would violate donor confidentiality. Instead, as food recovery groups have this information, jurisdictions should make requests - solely for pounds out of simplicity and consistency with generator donation metrics. The primary reporting responsibility	SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting

Comment Number	Received From	Question/Comment	Response(s)
		needs to be owned by edible food waste generators, and it is important that information is shared with food banks so that we can develop agreements and partnerships with those generators.	the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur. With regard to the comment about requiring commercial edible food generators to report, it is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.
3809	Emami, R., City of Anaheim	Section 18984.7 -This section requires that containers at the end of their useful life are replaced with SB 1383 color-compliant containers. The City recommends that Ca/Recycle eliminate the need to replace containers at the end of their useful life with SB 1383 co/or-compliant containers, and instead mandate that all containers comply with the color requirements described above by 2032. This will allow jurisdictions to utilize current container inventories and allow for a uniform replacement of new containers and messaging throughout the jurisdiction.	The regulations provide that a jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container.
3810	Emami, R., City of Anaheim	Article 3 - Mandatory Organic Waste Collection Section 18984.1(a){S}{A} - This section states that carpets, non-compostable paper and hazardous wood waste are prohibited from being placed in the green container. This subset is limited in scope and should be expanded. Currently the California Department of Food and Agriculture (COCA) restricts movement of certain organics within quarantine zones and this material should not be included in the green containers. This is addressed elsewhere in the proposed regulation text for non-local entities and at the facility level when measuring organic recovery rates, but not at the point of collection. The City recommends that CalRecycle amend the list of prohibited materials to include "material subject to a quarantine on movement issued by a county agricultural commissioner." Alternatively, the definition of organic waste in Section 18982(0)(46) could be amended to state "material subject to a quarantine on movement issued by a county agricultural commissioner is considered incompatible materials rather than organic waste.	Thank you for the comment. CalRecycle added language in Section 18984.13 to address quarantined waste.
3811	Emami, R., City of Anaheim	Section 18984.11(a){2} - This subsection allows for jurisdictions to waive organics program requirements due to limited physical space. The City recommends that CalRecycle clarify what constitutes "evidence demonstrating a lack of adequate space."	CalRecycle has not included implementation standards or minimum documentation requirements to allow jurisdictions set appropriate criteria. Jurisdictions, not haulers, administer the waiver, so the physical space waiver will not result in a race to the bottom in nonexclusive service areas. A hauler, licensed architect, or licensed engineer may provide evidence that a premise has a legitimate space constraint. If a jurisdiction has concerns about haulers in nonexclusive service

Comment Number	Received From	Question/Comment	Response(s)
			areas, they can opt not to issue waivers or use a qualified source other than a hauler to demonstrate lack of adequate space for separate organic waste containers.
3812	Emami, R., City of Anaheim	<p>Section 18986.l(a)(l)(A) - This section states that textiles, carpets, plastic coated paper, and human or pet waste may not be collected in the blue container for non-local entities. This requirement appears to be incongruent with the requirements placed on local entities.</p> <p>The City recommends that Ca/Recycle amend the definition to align with the requirements placed on jurisdictions in Sections 18984.1 and 18984.2.</p>	Thank you for the comment. CalRecycle amended the applicable sections for consistency.
3813	Emami, R., City of Anaheim	<p>Section 18985.l(f)- This section requires public education materials in various languages if more than 5% of the jurisdiction's population is identified as a "limited English speaking household," or as "linguistically isolated" by the U.S Census Bureau. The City recommends that CalRecycle consider increasing the percentage threshold to reduce the cost associated with preparation of public education materials in multiple languages.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3814	Emami, R., City of Anaheim	<p>Section 18985.2(a) -This section requires that each jurisdiction develop a list of edible food recovery services and organizations operating within each jurisdiction and post the information on their website.</p> <p>The City recommends that Ca/Recycle consider establishing a State-wide database similar to FACIT where food recovery service providers and organizations can register and provide their information once for access to all jurisdictions and generators.</p>	<p>Although CalRecycle intends to provide tools and resources prior to 2022 to assist with SB 1383 edible food recovery regulatory compliance, it is critical that jurisdictions develop their own lists of food recovery organizations and services operating in their area.</p> <p>Developing a list that includes food recovery organizations and services that have sufficient capacity and a proven track record of safely and efficiently recovering food for human consumption will help jurisdictions assess their edible food recovery capacity and identify capacity needs that exist. In addition, developing local lists will help commercial edible food generators find organizations and services that are capable of safely handling and distributing recovered food on a regular basis in their area.</p> <p>The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping to feed people in need.</p>
3815	Emami, R., City of Anaheim	<p>Section 18982(a)(65) - This section defines a route review as visual inspection of containers along a hauler route for the purpose of determining container contamination. Without specifying a minimum quantity of inspections per route, the regulations may result in a "race to the bottom" where haulers or jurisdictions are inspecting minimal containers per route. Another concern is an inconsistent interpretation or application of the minimum standards by Local Enforcement Agents.</p> <p>The City recommends that CalRecycle amend this definition or the corresponding enforcement section {18984.5} to specify a minimum percentage of containers or customers along the route to be inspected.</p>	<p>Comment noted. For clarity, the regulations allow the jurisdictions to determine random selection, which is the least costly and burdensome approach compared to requiring statistically significant sampling. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization. For clarity, the regulations allow the jurisdictions to determine random selection, which is the least costly and burdensome approach compared to requiring statistically significant sampling.</p>
3816	Emami, R., City of Anaheim	<p>General - This article will require a significant expenditure by jurisdictions throughout California to staff the enforcement efforts, including but not limited to: route reviews, compliance reviews, contamination monitoring, follow-up site visits, and the issuing of fines. During the enforcement workshop, CalRecycle suggested the potential for CalRecycle to perform the enforcement on behalf of agencies, similar to how agencies can arrange for Cal Recycle to be the Local Enforcement Agency for regulating solid waste facilities.</p> <p>The City recommends that Ca/Recycle provide an option for jurisdictions to contract with Ca/Recycle to perform the inspection and enforcement procedures.</p>	<p>A change to the regulatory text is not necessary. CalRecycle will not be contracting with jurisdictions to perform inspection and enforcement actions. There are insufficient resources at the state level to contract out for jurisdictions.</p>
3817	Emami, R., City of Anaheim	<p>Article 14. Enforcement Requirements</p> <p>Section 18995.l(a)(l)(A) - This section states that compliance reviews and route reviews shall be conducted to ensure compliance with the generator requirements outlined in Section 18984.9. The City recommends that Section 18995.l(a)(l)(A) be amended to require that compliance reviews and route reviews ensure compliance with the generator requirements set forth in Section 18984.9(a).</p>	<p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
3818	Emami, R., City of Anaheim	<p>Section 18997.2(d) -This section states that the penalty amount for each violation (subject to range limitations) will be determined through a qualitative process. It is likely that the current process will result in an uneven application of fines across jurisdictions.</p> <p>The City recommends that this section be amended to include a quantifiable</p>	<p>A change to the regulatory text is not necessary. Section 18997.3(d) has been changed to 18997.3(c) due to deletion of the penalty tables and the addition of the new penalty structure outlined in section 18997.3(b). The factors listed in Section 18997.3(c) are commonly used when determining a penalty amount. The penalty range may be used to consider aspects such as but limited to, the population of a jurisdiction. CalRecycle will not be including a quantifiable penalty formula in the regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		formula for determination of fines that eliminates subjectivity and the potential for inconsistent application.	
3819	Emami, R., City of Anaheim	Section 18997 .S{d) -This section states that upon receipt of an accusation of violation, a jurisdiction has 15 days to file a request for a hearing. Additionally, this section prescribes an expedited time frame for imposition of penalties, leaving jurisdictions little time to investigate potential violations and respond thoughtfully. The City recommends that jurisdictions receive a minimum of 45 days to investigate the accusation and request a hearing.	The 15 day window for requesting a hearing is modeled on the timeline for regulated solid waste facilities in Public Resources Code Section 44310. Provisions were included in Section 18994.1 for jurisdictions to report the primary contact person in the jurisdiction and the agent for service of enforcement process, if different. The purpose of these provisions was to ensure that enforcement process is routed to the proper individual within a jurisdiction. It is incumbent upon that individual to ensure the process material is routed efficiently and appropriately. In addition, the commencement of a penalty proceeding is only allowed to occur following a notice of violation process in which the jurisdiction will be on notice with an opportunity to correct. By the time a penalty accusation is served, a jurisdiction should be aware of a violation and the issues involved and the informational bar for requesting a hearing is set low.
3820	Emami, R., City of Anaheim	Section 18997.S(e) - This section states that if a party waives their right to a hearing, there is a potential to enter a settlement agreement. It is unclear how the settlement process could or should be conducted. The City recommends that this section be amended to provide guidance and parameters for settlements, or at a minimum contains a reference to the appropriate document that does provide this information.	A change in the regulatory text is not necessary. It is unclear on what parameters the commenter is suggesting, but in general, adding such parameters to the language may unduly restrict the discretion of the parties in reaching adequate settlement.
3821	Emami, R., City of Anaheim	Section 18995.2 - SB 1383 currently requires a voluminous centralized repository for all information related to SB 1383 programs, which entails over 40 units of observations and potentially millions of data points. Subsection 14.2 (c) requires that the jurisdiction shall provide access to the implementation record within one business day of request. The City recommends that the timeframe for providing or reviewing the implementation record be changed for consistency with The California Public Records Act, which indicates an agency must provide the records within a reasonable period of time and allows a ten-day period for response.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
3641	Etherington, K., Central Contra Costa Solid Waste Authority	I. Reporting - The draft regulations include extensive requirements for reporting and record keeping. These include: <ul style="list-style-type: none"> • Article 3. Record Keeping: Waivers and Exemptions • Article 4. Record Keeping Requirements for Compliance with Education and Outreach Requirements • Article 7. Compliance with Jurisdiction Hauler Program • Article 10. Record Keeping: Jurisdiction Edible Food Recovery Program • Article 11. Schedule for Reporting: Organic Waste Recycling Capacity Planning • Article 12. Record Keeping Requirements: Recovered Organic Waste Procurement Target • Article 13. Reporting • Article 14. Implementation Record and Record Keeping: Enforcement Requirements Although record keeping and reporting are necessary components of measuring progress, excessive use of these activities can distract jurisdiction staff and	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.

Comment Number	Received From	Question/Comment	Response(s)
		<p>resources from the more important work of implementing and operating the actual programs that will divert organic waste. CalRecycle staff are already aware of the extensive reporting requirements and record keeping that is required in the current annual reporting format, especially in areas of mandatory commercial recycling (MCR) and mandatory organics recycling (MO Re). The requirements for reporting in the draft SLCP regulations make reporting more complex, staff intensive, and increase the potential for inaccuracy.</p> <p>RecycleSmart requests that CalRecycle staff reconsider the amount of reporting and record-keeping required to only the most critical information needed to measure progress toward the goals of SB1383. Reducing the level of record keeping and reporting will allow staff to focus efforts and resources on effective program implementation, management, and education & outreach.</p>	
3642	Etherington, K., Central Contra Costa Solid Waste Authority	<p>Enforcement - Within Section 18996.2 (Department Enforcement Actions Over Jurisdictions), the draft regulations describe immediate issuance of a Notice of Violation in instances where a jurisdiction fails to comply with any part of the extensive program requirements. Under AB939, CalRecycle may consider a jurisdiction's "Good Faith Effort" (GFE) in implementation and management of required programs. However, in the draft SLCP regulations, GFE is replaced by "Substantial Effort" and "Extenuating Circumstances" which are much narrower in the protections they provide to jurisdictions. With a less complex regulation, this might not be an issue, but the extensive program requirements in the draft SLCP regulations and the possibility that not all may be met within a required timeframe makes the lack of a true GFE consideration a real concern.</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
3643	Etherington, K., Central Contra Costa Solid Waste Authority	<p>Penalties -Article 16 (Administrative Civil Penalties) lists the violations and "penalty severity levels" (monetary fines) for not meeting the requirements of this regulation. The regulations currently include thirty-nine (39) violations in areas of jurisdiction compliance with collection services, jurisdiction compliance with organic waste recovery education and edible food recovery education, jurisdiction compliance with CalGreen and Procurement, and jurisdiction adoption and enforcement of ordinances. Unlike the AB939 mandated requirements for implementation of all required source reduction and recycling measures and meeting the 50% diversion target, the draft regulations have an extensive list of violations with fines ranging from \$500 to \$10,000 per day. This creates an environment where jurisdictions will be more concerned with implementation of all required programs rather than selective program implementation based on local needs, staffing levels, funding, and resources.</p> <p>RecycleSmart requests that CalRecycle reduce the number of jurisdictional violations and the fines associated with violations. Institute a Good Faith Effort determination for those instances where a jurisdiction has attempted to respond to requirements of the regulations but not met the desired performance standard. Consider CalRecycle staff review and assistance to jurisdictions prior to issuing fines.</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
6005	Etherington, K., RecycleSmart	Work with Dept of Pub Health and local Enviro Health Depts regarding food recovery, transfer requirements, and conflicts with existing regs and standards.	Comment noted. Commenter is expressing an opinion regarding how the regulations should be implemented once finalized.
6006	Etherington, K., RecycleSmart	Identify costs and potential funding sources associated with edible food recovery	<p>CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed.</p> <p>CalRecycle would also like to note that SB 1383 provides a broad grant of authority to jurisdictions to “collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations...” The types of fees a jurisdiction may impose are not limited to tip fees or franchise fees. That said, some jurisdictions in California are already successfully using such fees to fund food recovery operations and activities.</p> <p>In addition, CalRecycle also is heavily focused on increasing food recovery infrastructure and capacity in California. CalRecycle’s Food Waste Prevention and Rescue Grant Program funds food waste prevention and food recovery projects across the state. To date, CalRecycle has awarded \$20 million dollars to over 60 grantees; the majority being food recovery organizations and services.</p>
6007	Etherington, K., RecycleSmart	RE schools and school districts: calrecycle should be the primary provider of assistance in establishing and implementing program requirements, including for edible food recovery	Local jurisdictions should still provide education to non-local entities and local education agencies within their geographic boundaries, as they already are doing under AB 1826 and AB 341. It is Important for these entities to know what collection options are available locally. CalRecycle will also provide assistance to local education agencies in implementing programs. The regulations already provide that compliance with this provision by these entities would be enforced by CalRecycle.
6008	Etherington, K., RecycleSmart	CalRecycle should provide the cost implications for the programs required by the regs, including identifying funding available from the state	CalRecycle prepared a SRIA to evaluate the economic impacts of the proposed regulations. CalRecycle is also exploring opportunities to provide support funding for implementation of the regulatory requirements
6009	Etherington, K., RecycleSmart	CalRecycle should consider less prescription in the regs and establish organics reduction/diversion goals. Allow jurisdictions to develop program solutions that fit local needs.	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA).</p> <p>CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were</p>

Comment Number	Received From	Question/Comment	Response(s)
			established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
3025	Evans-Fudem, E., League of California Cities	Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
3026	Evans-Fudem, E., League of California Cities	Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The League and others continue to seek solutions to address the need for substantial public sector funding. For example, for a number of years, we have urged that "Cap-and-Trade" proceeds be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.	SB 1383 provides the authority for jurisdictions to charge fees to offset the costs of implementing the proposed regulations. CalRecycle is also looking into methods to direct supplemental funding to local jurisdictions to assist in implementation.
3027	Evans-Fudem, E., League of California Cities	Enforcement: These regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we continue to urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.	Thank you for the comment. The comment is in support of current regulation language.
3028	Evans-Fudem, E., League of California Cities	Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations

Comment Number	Received From	Question/Comment	Response(s)
		to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	“may include penalties to be imposed by the Department.” This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations the require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
3029	Evans-Fudem, E., League of California Cities	<p>Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.</p> <p>The League further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, the League requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>CalRecycle has determined that procurement requirements are necessary to achieve the statutory organic waste diversion targets by ensuring an end use for processed organic waste. In addition, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a</p>

Comment Number	Received From	Question/Comment	Response(s)
			form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.
6280	Flood, M., LA Regional Food Bank	As the language in Articles 10 and 11 recognize, there are significant labor and infrastructure resources that are needed to obtain, process, and distribute food. The state and local jurisdictions will only be able to achieve this goal with an appropriate investment in the capacity and physical infrastructure of emergency food recovery organizations to increase the volume of food they receive, store and distribute. To that end, we are grateful to see the January 18 draft regulations include language in Article 10 about jurisdictions being able to fund these activities through avenues such as franchise fees and local assessments, as well as the ability for generators to self-haul and enter into contracts directly with food recovery organizations. We are in strong support of these funding mechanisms, which must be included in the final language, but urge that the capacity planning process in Article 11 be expanded to formally include stakeholders such as emergency food groups, to properly inform jurisdictions about gaps and needs. Furthermore, it is important that the final state and local regulations recognize as fundamental to this work that food recovery organizations' participation is voluntary, given the existing strains on the budgets of under-resourced non-profits and largely volunteer labor force engaged in food recovery.	This comment is in support of SB 1383's edible food recovery capacity planning process and requirements specified in Article 11 and language that was included in Section 18991.1. Regarding the comment that the capacity planning process in Article 11 be expanded to formally include stakeholders such as emergency food groups, to properly inform jurisdictions about gaps and needs. Section 18992.2 states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. It is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations and services which will likely include emergency food groups.
6279	Flood, M., LA Regional Food Bank; Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank	First, in consultation with our food bank partners, we agree with input provided by our state association of food banks that significantly refined comments regarding data collection in Article 13 offering an improved approach, and urge the Department to scale back and reimagine the role of emergency food providers in the data reporting process to avoid the unworkable and burdensome program, as currently written. We	A change to the regulatory text was not necessary because it was not clear what the commenter meant by "reimagine the role of emergency food providers in the data reporting process." Without a clear and detailed description of what was meant by asking CalRecycle to "reimagine the role of emergency food providers in the data reporting process," CalRecycle could not make a determination about whether a revision to the regulatory text was warranted. CalRecycle could like to mention that SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.
6301	Foster, C., City of Oceanside	Article 1 Section 1(a)(62)- This section defines Renewable Natural Gas Transportation Fuel as derived " ... from organic waste diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste." This definition may be interpreted to exclude renewable natural gas transportation fuel which is derived from sewage sludge anaerobic digestion or co-digested operations, which is likely the result of the City's integrated approach to organic food waste and biosolids. Accordingly, the City respectfully requests this definition be amended to read: " gas derived from organic waste processed in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23."	CalRecycle disagrees with the commenter's argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction's procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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. For the reasons noted above, gas generated from the inflows of a sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB

Comment Number	Received From	Question/Comment	Response(s)
			<p>1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.</p> <p>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.</p>
6302	Foster, C., City of Oceanside	<p>Article 2 Section 2.1(b)(2)- This section identifies community composting, as defined in Section 18982(a)(8) as a means of acceptable landfill reduction. Even though the City strongly believes community composting plays an integral role in integrated organics management, the City is concerned that SB 1383 draft language does not adequately provide oversight to ensure that high diversion is being achieved through this method, and that this method does not present any potential nuisance, vector, and/or odor issues. Accordingly the City recommends that Ca/Recycle consider including language that requires community composting operations/haulers/operators: remain below required thresholds for facility size; store and handle materials in a manner to protect public health and safety and the environment; and control vectors, fires, odors and nuisances; and to provide annual reporting of operations, generators, and education to local jurisdiction annually.</p>	<p>Community composting, as specified in Section 17855(a)(4), is an excluded activity and therefore does not require a solid waste facility permit or EA Notification. CalRecycle determined during the rulemaking process for the 2015 compostable material handling rulemaking that the small size of these operations does not represent a significant enough threat to public health, safety, or the environment to require permitting. To ensure oversight, however, a solid waste Enforcement Agency may inspect these activities to verify that continued qualification as an excluded activity and may take any necessary enforcement action.</p>
6303	Foster, C., City of Oceanside	<p>Article 2 Section 2.1(b)(4)- This section includes a Biomass Conversion operation as constituting a reduction of landfill disposal; however, it specifies that biomass conversion operations are to be per Section 40106 of the Public Resources Code. Section 40106 of the Public Resources Code excludes materials that contain "sewage sludge". The market for land application of biosolids in southern California is limited. Accordingly, the City currently land applies its biosolids by shipping them to Arizona. While it is the intent of the City to identify and exploit local markets for land applying biosolids as part of the Master Plan, land application is subject to market forces which are beyond the City's control. Should the land application market decline or the market for biochar (byproduct of incinerated biosolids) surge, biomass conversion of sewage sludge is an alternative for treatment that would reduce landfill disposal. Additionally, for facilities that codigest food waste and biosolids (which is the likely outcome for the City's project), biomass conversion does not appear to be in conformance with the proposed rules. Accordingly, the City recommends that Ca/Recycle consider including biomass conversion of materials that contain sewage sludge as reducing landfill disposal.</p>	<p>The commenter raises an issue that is in conflict with statutory limitations on what can be permitted as a biomass conversion facility in California that would require changes to statute. Although the process described could theoretically be handled under Section 18983.2 as an alternative process or technology, permitting of such a facility would remain a challenge.</p>
6304	Foster, C., City of Oceanside	<p>Article 2 Section 2.1(b)(6)(B)(1)- This section includes land application of biosolids as constituting a reduction of landfill disposal; however, it specifies that land applied biosolids shall have undergone anaerobic digestion or composting as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B. Appendix B provides detail on a suite of Class B and Class A pathogen reduction technologies, which includes far more options for each Class, which are all deemed equivalent to</p>	<p>At this time, staff cannot confidently conclude that the specific pathogen treatment processes used to safely apply biosolids to land, other than composting and anaerobic digestion, reduce greenhouse gas emissions to the benchmark value of 0.30 MTCO_{2e} per short ton organic waste. CalRecycle evaluated the BEAM model referred to by one commenter and determined the model does not provide enough detail to evaluate whether the greenhouse gas emission factors used are peer reviewed. Additionally, the BEAM model estimates carbon sequestration benefits of compost</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>anaerobic digestion or composting. While the City of Oceanside currently utilizes anaerobic digestion to treat biosolids, the City may need to construct new infrastructure in the future to treat additional organic wastes at the site (either those generated within the City or regionally). Limiting the treatment technologies to anaerobic digestion and composting may eliminate optimal treatment options for the City that are not in conflict with the State's Goals.</p> <p>Accordingly, the City recommends that Ca/Recycle replace the words " anaerobic digestion or composting 11 With " one of the processes, 11 to enable all pathogen reduction technologies to be considered.</p>	<p>applications, which are not permanent and thus cannot be used to meet the requirements of the proposed regulation. Thus, a change to the regulation is not appropriate at this time. Staff notes that any process or technology not specified in Section 18983.1 as a reduction of landfill disposal, including the pathogen reduction processes mentioned previously, may be submitted and evaluated in accordance with the requirements of Section 18983.2.</p>
6305	Foster, C., City of Oceanside	<p>Article 3 Section 3.l(a)(G)- This section narrowly identifies the collection options for organic waste. This section only provides opportunities for source separated collection through a two cart system, three cart system, four cart system, and/or split cart system. It fails to permit a yellow bag system that would allow the generator to source separate food waste organics into a yellow bag, and place that yellow bag into the green waste cart, to then be collected, and removed for processing at an organics recycling facility. Current sorting and preprocessing systems can guarantee minimal contamination with a yellow bag program, equal to, receiving systems for two carts, three carts, four carts, and split cart systems. Current systems have proven this technology can work, and can ultimately result in high diversion through anaerobic digestion, composting, and other technologies. Furthermore, the yellow bag system allows for jurisdictions to achieve high diversion, without needing to replace transportation infrastructure (collection vehicles for split carts); cart infrastructure; and/or citing a compost facility in dense urban areas, that have limited options when it comes to land, resources, and permitting capability. The draft language as it stands today, limits our City's opportunity for diversion, and further requires the City to consider options that would not be cost effective, and could ultimately result in greater contamination, lack of community buy-in (4th cart), and increased greenhouse gas emissions from additional routing truck traffic. Accordingly the City recommends that Ca/Recycle consider adding language that will permit the use of a yellow bag food waste/organics collection program within the green waste cart.</p>	<p>The commenter's situation is addressed in the regulations. CalRecycle revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
6306	Foster, C., City of Oceanside	<p>Article 3 Section 5.(b)- The City understands that in order for organics diversion to be successful, contamination must be addressed through outreach, monitoring, reporting and enforcement, and as a result the City further understands Cal Recycle's interest in directing contamination oversight.</p> <p>However, this section currently provides overly prescriptive direction on how a jurisdiction is to monitor and report on contamination. Quarterly route reviews by the Jurisdiction, along with mandatory immediate route reviews by the Jurisdiction if the hauler or solid waste facility operator identifies any level of contamination is not reasonable, and overly burdensome to the jurisdiction. Oceanside's service area covers over 175,000 residential customers, along with several thousand commercial customers. Quarterly route reviews, reporting, and pre- and posteducation would</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. CalRecycle also modified the regulations to annual. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>be too burdensome to our jurisdictions staffing resources, costly and could result in unreasonable nuisances to the public. Additionally, the current proposed language does not clearly identify what minimal levels of contamination are allowed, or what level of contamination warrants further investigation. Without clear guidance on contamination levels, jurisdictions could face arbitrary requests to investigate for contamination. Accordingly, the City recommends Ca/recycle consider revising this section to require annual inspections of all routes, and further add limiting language that clarifies what constitutes significant contamination, and as a result requires additional investigation.</p>	<p>modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6307	Foster, C., City of Oceanside	<p>Article 3 Section 6(a)(3)(A)· This section requires the jurisdiction to maintain for records and production as requested by CalRecycle all documentation related to the implementation, outreach, and enforcement of this law. This includes overly prescriptive requirements to maintain any and all written and oral based records, which include the reporting of any oral or "direct" interactions with the public on the organics program. This is nearly impossible, considering our team interfaces with the public dozens of times, every day both casually and formally, which could ultimately result in the need to produce thousands of pieces of documentation for basic public interface and outreach needs. Accordingly the City recommends Ca/Recycle consider removing Section 6{a}{3}{A} in its entirety, and if needed, replace this section with a requirement to provide a summary of how the jurisdiction handles "direct" interactions with the public, with a recommendation for the jurisdiction to provide samples of direct interactions and/or basic scripts for public interface.</p>	<p>This requirement was removed from the text.</p>
6308	Foster, C., City of Oceanside	<p>Article 3 Section 5(b)(1)· This Section requires that all carts/containers be adequately labeled, and further requires that in order to comply, the language specifically states that jurisdictions must place labels on all containers commencing January 1, 2022. In order to use existing infrastructure, under this requirement, our City would have to produce and physically place new labels on over 90,000 residential carts, and over 15,000 commercial containers. Our City lacks significantly in the staffing and</p>	<p>Thank you for the comment regarding the additional time, great cost savings, and easier compliance with the container color and label requirements.</p> <p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>financial resources to accomplish this, and would be further limited by the difficulty in ensuring all customers place their carts out properly for physical labeling. Additionally, due to our high turnover rate from tourism, military, and general seasonal migration, many carts are not placed out for servicing on collection dates, further making labeling by the jurisdiction not effective. In order to be efficient, cost effective and timely in this process, would Ca/Recycle permit a jurisdiction to mail labels to generators (commercial and residential) in lieu of physical placement, and if so, would Ca/Recycle consider amending this section to reflect this option as compliance?</p>	<p>be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
6309	Foster, C., City of Oceanside	Article 3 Section 10· This section requires property and business owners to provide adequate containers for organics recycling, education, and access to containers. It fails to require or address the need for property or business owners to ensure	The recommendation is not necessary to achieve the organic waste reduction target and jurisdictions already have the authority to address nuisances.

Comment Number	Received From	Question/Comment	Response(s)
		collection containers are maintained and stored in an area screened from public view and free of public nuisance. Accordingly, the City recommends that Ca/Recycle consider adding language in this section to require property and business owners to screen collection containers from public view, and to maintain collection containers in a manner free of public nuisance, odor, fire, and vermin.	
6310	Foster, C., City of Oceanside	Article 3 Section 11 (a)(2)- This section permits a jurisdiction to provide physical space waivers to commercial businesses and/or property owners. This section is extremely vague, overly burdensome to jurisdictions, and furthermore opens the door to capricious and arbitrary abuse of customers seeking to bypass compliance of this regulation, and ultimately bypass collection fees and services. In coastal cities, like Oceanside, and other older cities across the State of California, jurisdictions constantly face the challenge of accomplishing diversion in areas that lack proper access for storage and servicing of all material streams. To resolve these issues our jurisdiction has taken great steps to incorporate split bin systems, shared servicing systems, and service audit programs, to help business find space in "tight areas". To permit a waiver of this nature and extent, with no specific limitations, and/or oversight by CalRecycle, Cities like Oceanside will face the potential of hundreds, if not thousands of waiver requests, most of which the City would not be permitted to deny. It would also make it very difficult for Oceanside or many cities in general to achieve the high organics diversion goals, that SB 1383 calls for. Accordingly the City recommends Ca/Recycle remove the "Physical Space Waiver" or replace existing language with additional direction on how to determine an appropriate threshold for a waiver, limitations on a waiver, along with direct oversight by Ca/Recycle. For example, if a waiver was permitted by a jurisdiction, that waiver should be reviewed annually by Ca/Recycle, and should ultimately have the potential to be rescinded by Ca/Recycle and the jurisdiction if abuse is suspected, or other options present itself Furthermore, the waiver section should not limit the City's right to charge a fee to cover organics programming services citywide.	It is optional whether jurisdictions grant physical space waivers. They are not required to. Note that jurisdictions also may have more stringent requirements than the proposed regulations
6311	Foster, C., City of Oceanside	Article 3 Section 13 (b)(2)- This section provides for disaster and emergency debris disposal waivers, and further allows for the disposal of all materials, organics included from dams, culverts, reservoirs, and other flood control areas. This section does not specifically state whether a general clean-up or a clean-up of a homeless encampment would qualify for a waiver. Considering the hazardous nature, and the high contamination levels of materials generated from these types of activities, the City is recommending that Ca/Recycle add language to this section that would permit a waiver for the disposal of debris from general clean-ups and homeless encampment clean-ups.	Jurisdictions are not required to separate and recover organic waste removed from homeless encampments. While waste removed from homeless encampments or illegal disposal sites does still count as statewide disposal, the jurisdiction is allowed to dispose of the material and is not subject to enforcement for disposing of the material. As stated in the statement of purpose and necessity for the regulations, specifically Article 3, this regulation does not subject jurisdictions to diversion targets. This regulation cannot alter what activities count as disposal under AB 939.
6312	Foster, C., City of Oceanside	Article 6 Section 6.2(a)(l)- This section requires all biosolids produced at any wastewater treatment plant to be treated via anaerobic digestion and/or composting and sent for land application. Local land application in Southern California is limited, is subject to market forces, and may not always be a viable or	These requirements are to ensure methane reduction. CalRecycle will not be changing these requirements.

Comment Number	Received From	Question/Comment	Response(s)
		<p>optimal option for diversion of biosolids from landfills. In addition to biomass conversion, there are also other end uses employed which appear to be disallowed under this requirement. While the current market forces enable economic land application of biosolids for the City of Oceanside, the City is looking at all options for treated biosolids. Accordingly, the City recommends that Ca/Recycle consider all end uses that divert biosolids from landfill and do not otherwise conflict with the State's Goals. Additionally existing biosolids management practices whereby biosolids do not leave the site should be excluded from these regulations. And emerging technology which may result in energy production (thermal) or avoid fossil-based fuels (cement kilns), but which do not send any biosolids to a landfill should be encouraged.</p>	
6313	Foster, C., City of Oceanside	<p>We recommend all treatment technologies specified in Appendix B of 40 CFR part 503 which result in land application or land reclamation should be counted as a reduction in landfill disposal. Existing biosolids management practices whereby biosolids do not leave the site should be excluded from these regulations. And emerging technology which may result in energy production (thermal) or avoid fossil-based fuels (cement kilns), but which do not send any biosolids to a landfill should be encouraged.</p>	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.</p>
6314	Foster, C., City of Oceanside	<p>Article 7 Section 7.(c)(l) - This section requires the jurisdictional approval of haulers, in an effort to ensure haulers are in compliance with the regulation, and are further monitored by the jurisdiction. This section falls short, in that it allows for community composting operations to be exempt from registering or reporting to the jurisdiction. This is contradictory to other requirements throughout the law that require jurisdictions to report on all diversion activities including community composting. It also creates the potential for abuse by community composting, that are actually conducting operations at a large scale, or operations that pose a nuisance or threat to the public health, and/or are in violation to any local franchise operations. Accordingly, the City recommends Ca/Recycle eliminates the blanket exemption for community composting, and further add language that requires community composters to register and provide reporting of operations and generators to jurisdictions at minimum on an annual basis.</p>	<p>Nothing in the cited section allows for community composting operations to be exempt from registering or reporting to the jurisdiction. In addition, any community composting operation must operate lawfully in accordance with all applicable local and state requirements regarding size and throughput. These regulations also do not allow community composting operations to be in violation or any local franchise agreement. Nothing in the regulations prohibits a jurisdiction from having more stringent requirements, such as requiring reporting.</p>
6315	Foster, C., City of Oceanside	<p>Article 10 Section 18991.2, 18991.3, 18991.4 - This section outlines requirements for recordkeeping and reporting by jurisdictions, edible food generators, and edible food recovery organizations. It puts a significant burden on jurisdictions to monitor,</p>	<p>The regulations specify that commercial edible food generators and regulated food recovery organizations and services 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</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>collect information, and report on the activities of both edible food generators and edible food recovery organizations.</p> <p>However, it fails to require adequate recordkeeping and reporting of activities by edible food generators and edible food recovery organizations. Accordingly, the City recommends Ca/Recycle adds language to require that not only records be developed and maintained by edible food generators and edible food recovery organizations, but also provided by request to Jurisdictions, and/or annually to jurisdictions.</p>	<p>generators and regulated food recovery organizations and services 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 be able to monitor compliance.</p>
6316	Foster, C., City of Oceanside	<p>Article 12 Section 12.l(f)- This section requires jurisdictions to procure recycled organic waste product but limits those products to compost and renewable natural gas transportation fuel or "RNG". This limitation appears to incentivize RNG over other forms of recycled organic waste product such as renewable electricity produced from biogas. The City currently produces renewable electricity from the biogas produced at City facilities and has recently compared the economics of producing RNG, renewable natural gas for pipeline injection, and biogas for use in a combined heat and power system. The results of that analysis included significant additional costs and/or risk to the City for producing renewable natural gas for either transportation fuel or pipeline injection including but not limited to (1) additional gas cleaning infrastructure, (2) piping infrastructure to the nearest natural gas pipeline, (3) fleet conversions to compressed natural gas, (4) uncertain state and federal subsidies, and (5) market factors. Based on all of these factors, the preliminary recommendation as part of the City's project favored production of electricity from the biogas produced from co-digestion of organic food waste and biosolids. Additionally, the City is aware of research regarding conversion of biogas to other reusable resources such as bioplastics. While these types of efforts are still in the research phase, the current language would add a barrier to development of these types of products. Accordingly, the City recommends that Ca/Recycle consider all forms of recycled organic waste product as meeting this procurement requirement, including but not limited to the generation of electricity from biogas produced from co-digestion of organic food waste and biosolids, renewable natural gas for alternate uses, and byproducts made from the treatment process.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6317	Foster, C., City of Oceanside	<p>Article 12 Section 12.l(f)(l)- This section establishes a procurement requirement for jurisdictions for compost. While the City currently procures compost that meets the intent of this section, the IW2EBMP is evaluating an integrated organic waste/biosolids approach that is likely to include codigestion of organic food waste</p>	<p>The current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>and biosolids and co-composting of green waste and the digestate produced from the co-digestion operations to produce a commercially viable product. Article 1 Section 1(a)(12) defines compost as having the same meaning as in Section 17896.2(a)(4). Title 14 CCR Section 17896.2(a)(4) defines compost as "the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility." This definition may be interpreted to exclude materials that include biosolids. Under the City's integrated approach, the compost procured would not meet the narrow definition of compost proposed under the rules. The City recommends that CalRecycle amend the definition of Compost to the following: "the product manufactured through the controlled aerobic, biological decomposition of organic waste".</p>	<p>composts on-site (refer to Section 18993.1(f)(1)(A) and (B). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target. CalRecycle disagrees with adding any products that include biosolids, that don't meet the above criteria. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors</p>
6318	Foster, C., City of Oceanside	<p>Article 12 Section 12.1(f)(2)- This section establishes a procurement requirement by jurisdictions for Renewable Natural Gas transportation fuel. Article 1 Section 1(a)(62) defines Renewable Natural Gas Transportation Fuel as derived " ... from organic waste diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste." This definition appears to exclude renewable natural gas transportation fuel which is derived from sewage sludge anaerobic digestion and co-digestion operations, which is likely the result of the City's integrated approach to organic food waste and biosolids. Accordingly, we respectfully request this definition be amended to read: " gas derived from organic waste processed in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23."</p>	<p>CalRecycle disagrees with the commenter's argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction's procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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. For the reasons noted above, gas generated from the inflows of a sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.</p> <p>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.</p>
6319	Foster, C., City of Oceanside	<p>Article 12 Section 12.1(f)(2)- We also request that any other beneficial uses of methane be deemed eligible to qualify as fulfilling the procurement obligations. This includes pipeline injection, on-site power production and exported electricity, as well as the production of renewable transportation fuel.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6320	Foster, C., City of Oceanside	<p>Sections 17409.5.7, 17896.25.1, 17867, and 20901- These sections require the implementation of a load checking program to prevent the acceptance of prohibited waste. In the near-term, the City of Oceanside intends to perform a pilot study using a bioslurry produced at another facility. The bioslurry to be procured is anticipated to be required to have met certain contamination requirements to ensure minimal impact to the City facilities. The procurement of a bioslurry that is produced at another facility does not appear to be exempted from the load checking requirements, and the facilities that produce the bioslurry will likely have met the regulatory requirements for processing facilities rendering load checking requirements at the in-vessel digester facilities as unnecessary and labor intensive. Accordingly, the City recommends that facilities that procure bioslurry that is produced at another facility be exempted from the load checking requirements.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
6321	Foster, C., City of Oceanside	<p>Sections 17409.5.7, 17896.25.1, 17867, and 20901 Additionally, the City is evaluating the potential for processing raw organic streams into a bioslurry at City facilities. If this option is determined to be feasible, the City is concerned that the proposed rules will require onerous load checking requirements based on discussions with active processors. Accordingly, the City respectfully</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container</p>

Comment Number	Received From	Question/Comment	Response(s)
		request that language be added to enable alternate load checking requirements appropriate for local conditions.	waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
6322	Foster, C., City of Oceanside	Section 17896.44.1- This section requires measurement of organic waste at in-vessel digestion operations. This section does not appear to account for measurement requirements at codigestion facilities, which will need to have separate measurement methodologies prior to digestion and a combined measurement methodology subsequent to digestion. Accordingly, the City respectfully requests that Ca/Recycle add language clarifying the measurement methodology for co-digestion facilities	Publicly Owned Treatment Works (POTW) that receives solid waste that is anaerobically co-digestion with POTW wastewater, pursuant to Section 18896.2, is an excluded activity. Activities that are excluded are not subject to the measurement requirements.
6323	Foster, C., City of Oceanside	Article 13 Section 2- This entire section outlines in overly prescriptive detail the reporting requirements of the entire regulation. Prior comments in this letter have already addressed specific concerns that are to be reiterated as they apply within this section. Much of the reporting burden put on the jurisdiction, generator, and haulers is unreasonable, and not realistic in the reporting timeframes set by Cal Recycle. The reporting requirements of this law alone, are greater than anything we have experienced in our industry, including reporting requirements for AB 939, AB 341, and AB 1826. Accordingly, the City would like to recommend Ca/Recycle reconsider much of its language in this section, and edit the language to mitigate the frequency and prescriptive detail that will only serve to undermine and "set up" jurisdictions good faith efforts to comply and report on activities. The City recommends Ca/Recycle consider jurisdictional proposals for reporting alternatives, annual programmatic summaries, and only if needed, when compliance is of concern, major reporting reviews every three to 5 years versus annually.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
6324	Foster, C., City of Oceanside	2014 Waste Characterization Table- Please confirm that this Table has been updated to include Biosolids data from 2014, since this serves as the baseline upon which compliance with draft regulations is based.	The 2014 waste characterization was one source of data used to determine the baseline level of organic waste disposal in the year 2014. The 2014 waste characterization study was produced prior to the adoption of SB 1383 in 2016. The waste characterization study is an estimate based on surveys, CalRecycle has not claimed that the study represents an exact or perfect number of organic waste disposal tons that occurred in California in 2014; however, the study represents the most comprehensive estimate of waste disposal for California in 2014. The same study is also relied upon to set targets for AB 1826 which has a 2014 baseline linkage as well. CalRecycle's use of the 2014 study for the 1826 targets was public prior to the adoption of SB 1383. There is no evidence that the Legislature intended that CalRecycle take a different course and disregard the body of evidence compiled in the waste characterization study. However, CalRecycle did not solely rely upon the waste characterization study. CalRecycle supplemented the waste characterization study data with data from the Disposal Reporting System (now the Recycling Disposal and Reporting System) regarding disposal of organic waste as alternative daily cover (ADC) or alternative intermediate cover (AIC). CalRecycle additionally relied

Comment Number	Received From	Question/Comment	Response(s)
			upon data provided by the wastewater industry regarding the disposal of biosolids including the disposal of biosolids as ADC and AIC.
3301	Fox, D., City of Diamond Bar	Infrastructure Capacity: California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
3302	Fox, D., City of Diamond Bar	Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Diamond Bar and other communities continue to seek solutions to address the need for substantial public sector funding. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as funding household hazardous waste programs to prevent contamination of recyclables, and funding for targeted educational programs to help share knowledge about sustainable living.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
3303	Fox, D., City of Diamond Bar	Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations

Comment Number	Received From	Question/Comment	Response(s)
		to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	“may include penalties to be imposed by the Department.” This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations the require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
3304	Fox, D., City of Diamond Bar	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”. CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
3305	Fox, D., City of Diamond Bar	Constitutionality of Fees: CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929).	CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a

Comment Number	Received From	Question/Comment	Response(s)
			<p>fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
2030	Gardner, Janet; Fresno	At least one jurisdiction is pushing these requirements to the haulers to do the inspections of the hauler customers and report back to the jurisdiction. Thereby putting a huge burden on haulers and/or processors to act as enforcement officers. It appears SB 1383 compliance and enforcement measures are not realistic, verifiable, and consistent or equitable for all communities.	Pursuant to Section 18981.2, any designation of a public or private entity to carry out a jurisdiction's responsibilities under Chapter 12 would need to be pursuant to a contract or MOU. As such, a designation would be subject to a negotiated agreement and a potential designee cannot be forced into accepting a designation.
2031	Gardner, Janet; Fresno	Do customers have the option of refusing entry for the purpose of inspections? Would a court consider issuing an inspection warrant for this type of inspection? There are so many unintended consequences of implementation and enforcement.	CalRecycle added section 18984.10(c)(1) which states it is not intended to permit an employee or agent of the Department or a jurisdiction to enter the interior or a private residential property.
3635	Geyer, M., Kern County Solid Waste Management Advisory Committee LTF	On behalf of the governing jurisdiction(s), business enterprises, and the citizens of Kern County, this Committee has found that the SB 1383 regulations will result in hardships on all parties related to the upfront cost, the competitive viability of organic end use products, increased monitoring and reporting, cross-jurisdictional contamination, and the general intrusive nature that will be placed upon our businesses and citizens.	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.
3636	Geyer, M., Kern County Solid Waste Management Advisory Committee LTF	This committee is concerned that the overall nature of this Senate Bill has been derived from a theoretical model that has not been vetted in the real world and will not have a successful practical application and the jurisdictions, businesses, and citizens will be left with the fallout. Therefore, the Kern County Solid Waste Management Advisory Committee and Local Task Force, in good faith, cannot support SB 1383, as presented.	Comment noted. The commenter is expressing an opinion regarding the authorizing statute rather than the regulations or regulatory process.
3637	Geyer, M., Kern County Solid Waste Management Advisory Committee LTF	For these reasons, we urge you to reconsider many of the proposed components of SB 1383 and take a more flexible approach on timelines, specified scientific parameters, and the penal nature of the bill. It is our deepest hope that many of the submitted comments are adhered to and those facets of the bill are changed accordingly.	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.

Comment Number	Received From	Question/Comment	Response(s)
3071	Geyer, M., Kerntec Industries, Inc.	<p>In summary, the regulations, as written, will subject California’s public to unabridged unwarranted health hazards that are broad and real, including:</p> <ul style="list-style-type: none"> • Putrescible “prohibited” food wastes will result in harmful residues in the compost, • Harmful human pathogens will be present in the compost, • Containers holding putrescible food waste will be a breeding-ground for pathogens, • Rotting putrescible food waste, in containers, will attract vectors, • Waste containers that stink and attract vectors will lead to conflict and disputes, • Food-waste containers will need frequent cleaning with corrosive chemicals, and • Composting facilities expose the public living and working downwind from these facilities to alarming concentrations of odors, bioaerosols, and particulate matter. <p>It is negligent to think that mandatory composting food wastes will significantly improve public health in California. Public health should be a primary Dept. consideration given real hazards ... not theoretical, un-proven hazards associated with methane emissions and global warming.</p> <p>NOTE: This is a 4 page letter with one comment. I only included the summary here...</p>	<p>Comment noted. The regulations are designed to achieve the specific purpose of the statute. The comment does not recommend any specific regulatory change but references potential health and safety issues that the regulations already addresses.</p>
3072	Geyer, M., Kerntec Industries, Inc.	<p>In my opinion, the foundation for these rules is NOT supported by the US-EPA. As I understand it, the Dept. is mandating physical separation and then composting putrescible food waste with the intent of preventing landfill disposal, for the purpose of reducing generation of landfill gas (which contains 40 to 60% methane), to achieve greenhouse gas emissions reductions; because, as the Dept. believes, methane emissions from California’s landfill contribute significantly to global warming and climate change.</p> <p>My position (opposing these regulations) is supported by the U.S. Environmental Protection Agency’s (US-EPA) Landfill Methane Outreach Program (LMOP). Based on US-EPA LMOP facts:</p> <ul style="list-style-type: none"> • Using landfill gas to generate energy and reduce methane emissions produces positive outcomes for local communities and the environment. • The benefits of landfill gas energy projects are significant for the following reasons: <ul style="list-style-type: none"> o Reduce greenhouse gas emissions, o Reduce air pollution by offsetting the use of non-renewable resources, o Create health and safety benefits, o Benefit the community and economy, and o Reduce environmental compliance costs. • Landfill gas energy projects capture between 60 and 90% of the methane emitted from a landfill. • CO2 emissions from municipal solid waste landfills are not considered to contribute to global climate change. 	<p>Commenter is expressing an opinion regarding the scope of the proposed regulations. However, the diversion of organic waste from landfill disposal is a statutory mandate as opposed to a discretionary decision by CalRecycle.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> • Energy produced from landfill gas offsets the use of non-renewable resources, such as coal, oil or natural gas. • Landfill gas energy recovery gives communities and landfill owners the opportunity to reduce costs associated with regulatory compliance by turning landfill gas into a valuable community resource. <p>(Reference: https://www.epa.gov/lmop/benefits-landfill-gas-energy-projects) All of the above stated facts, by the US-EPA, are in stark contradiction to the Dept.'s Policy Statement Overview; which describes methane emitted from landfills to be significant contributors of global warming and climate change – a theoretical assumption at best. I am appalled, because the Dept. has the authority, and duty, to provide for the protection of public health, and these rules don't. Moreover, the Dept. admits that these rules will result in a \$17.4 Billion dollar hit to California's economy. The Dept.'s analysis of public health benefits is dubious and weak. The Dept.'s analysis of the cost to California's is alarming; given a weak association of theoretical benefits. These rules are unwarranted and unjustified given facts provided by the US-EPA's LMOP program; which has been developed with over 20-years of landfill research and findings.</p>	
2004	Gilbert, Jennifer; City of Davis Public Works	The flexible waste container options showed in the SB 1383 presentation did not show a split recycling cart where both sides of the cart collect only recycling (paper on one side, glass, plastic and metals on another side). Are split recycling carts allowed under the proposed regulations?	A change to the regulatory text is not necessary because split carts already are allowed.
2005	Gilbert, Jennifer; City of Davis Public Works	The proposed regulations require all businesses to have recycling and organics bins next to each trash container that "conform with the containers provided for collection in both color and labeling obligations". (Title 14, Chapter 12, Article 3, Section 18984.9-10) Is each trash bin within a business required to have a color coded recycling and organics bins next to it or only trash bins with lids? The color coding regulations specifies that only the lids need to be color complaint, so what about indoor bins without lids?	With respect to containers owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements. With respect to containers owned by private businesses, if there is no lid, then the body can be the applicable color or it can be labeled. In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.
2006	Gilbert, Jennifer; City of Davis Public Works	Can you please clarify how the regulations plan to manage landscape companies that haul yard trimmings away from their commercial and/or residential customers? Are they required to report to jurisdictions? How would a jurisdiction know about these self-haulers (many of which do not have business licenses and operate under the radar) and how can we regulate this?	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling

Comment Number	Received From	Question/Comment	Response(s)
			requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.
6062	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	...we are grateful to see the January 18 draft regulations include language in Article 10 about jurisdictions being able to fund these activities through avenues such as franchise fees and local assessments, as well as the ability for generators to self-haul and enter into contracts directly with food recovery organizations. We are in strong support of these funding mechanisms, which must be included in the final language, but urge that the capacity planning process in Article 11 be expanded to formally include stakeholders such as emergency food groups, to properly inform jurisdictions about gaps & needs.	A change to the regulatory text was not necessary because it is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations which will likely include emergency food groups. Section 18992.2 also states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators.
6063	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	...we thank CalRecycle for the language in Article 9 that reflects the need for foodrecovery organizations to be able to refuse food donations. Food recovery organizationsoperate on extremely thin budgets, and often experience staff turnover, funding shocks orother disruptions that may prevent them from participating in an arrangement even if they were otherwise favorable. The final state and local regulations recognize as fundamental tothis work that food recovery organizations’ participation is voluntary, given the existing strains on the budgets of under-resourced non-profits and largely volunteer labor force engaged in food recovery.	A change to the regulatory text was not necessary because this comment is in support of language that was included in Article 9, Section 18990.2. Edible Food Recovery Standards and Policies.
6064	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding	We urge inclusion, perhaps in Article 13, of an impact assessment on food recovery organizations to understand this issue and provide information to jurisdictions and other stakeholders about how to respond to any challenges raised. For example, food banks will be wondering: Is the additional food recovery estimated from this equal to, less than, or morethan the additional cost on food banks to meet the mandated requirements?	The regulations specify in Section 18990.2 that nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible generator. Food recovery organizations and services are not mandated to recover food nor are they mandated to establish contracts or written agreements with commercial edible food generators pursuant to Section 18991.3(b). If the costs to recover additional food are too great, then food recovery organizations and services do not have to recover additional food. Adding a requirement to Article 13 requiring jurisdictions to perform an impact assessment on food recovery

Comment Number	Received From	Question/Comment	Response(s)
	San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S		organizations and services would be overly burdensome for jurisdictions as they are already required to assess edible food recovery capacity and increase capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs.
6065	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>We further urge CalRecycle to encourage jurisdictions to develop funding mechanisms that offset higher mandatory commercial organics recycling incurred that emerge in new partnerships due to recovery activities necessary to meet the 20% diversion goal. These include many possibilities, such as:</p> <p>Working with generators that food banks currently do not receive donations that would require de-packaging due to organizational nutrition policies, Working with donors whose offerings have a lower yield of edible food and an accordingly higher percentage of food loss during the recovery process.</p>	<p>CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed.</p> <p>CalRecycle would also like to clarify that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing specifications in their contracts or written agreements with commercial edible food generators. For further clarification, please refer to the FSOR.</p>
6066	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>Funding mechanisms should recognize that</p> <ol style="list-style-type: none"> 1. a large share of the costs associated with increasing the capacity for food rescue will be for labor and physical infrastructure costs associated with coordinating the additional food, 2. recovery activities pursuant to SB 1383's goal will nearly always augment work already being done with a mixture of existing and new capacity (staff, cold storage, vehicles, fuel and other fixed costs), and therefore funding should not be restricted to incremental pounds of food. 	<p>CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included in the section to encourage jurisdictions to establish a sustainable funding source to help cover their program implementation costs. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed.</p> <p>CalRecycle would also like to clarify that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.</p>

Comment Number	Received From	Question/Comment	Response(s)
6067	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>CalRecycle must define and delineate between ‘edible’ and ‘recoverable’ food, in particular to define the latter term and having the diversion mandate key off of recoverable foods – not edible. Making these changes in the definitions provides essential protection and clarity rather than simply listing each food recovery organization’s priority foods and nutrition policies in the local ‘food donation guides’ as CalRecycle envisions in Article 4. This is a critical distinction – many times edible foods require packing, processing, or other additional work to enable their donation. Who will pay for that? CalRecycle should consider using the nationally established definition of food eligible for donation by the Bill Emerson Good Samaritan Food Donation Act; mirrored in AB 1219 (Eggman, 2017).</p> <p>The term “apparently wholesome food” means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.</p> <p>We wish to be on record that if this language is not adopted, not only will there be inconsistency with existing practice, but also some food would require additional labeling to allow recovery and donation, placing an additional burden on food banks to do so. This could significantly raise costs to achieve the diversion goal.</p>	<p>In an early draft of the proposed regulations edible food was defined as: “Edible food” means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, “edible food” is not solid waste if it is recovered and not discarded.”</p> <p>Several commenters made the argument that this definition was too restrictive, because it described “recoverable food” not “edible food.” Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters’ concerns about the definition of “edible food” being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following:</p> <p>“Edible food” means food intended for human consumption.</p> <p>(A) For the purposes of this chapter, “edible food” is not solid waste if it is recovered and not discarded.</p> <p>(B) 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.</p> <p>Although the final definition of “edible food” is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities and eliminated the need to provide a separate definition for “recoverable food.”</p>
6068	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>In addition, it is imperative that CalRecycle and jurisdictions exempt the ‘nonprofit charitable organizations’ (food banks and their non-profit partners) from fees and penalties related to their own waste incurred during compliance with SB 1383 as long as they are accepting donations with the intention to distribute the food for consumption. As the stream of donations increases, there may be more instances where food is not handled safely or as represented and if the non-profit charitable organizations are to help get this food out, it is important that they not be penalized for attempting to solve the overall problem.</p>	<p>Nothing in SB 1383’s regulations requires a food recovery organization or a food recovery service to recover edible food. Section 18990.2 of the regulations states, “Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator.” If a food recovery organization or service cannot safely collect and distribute food because it is at maximum capacity, then it should not be collecting any more food. In addition, nothing in SB 1383’s regulations requires a food recovery organization or service to establish a contract or written agreement with a commercial edible food generator. A food recovery organization or service, may wish to consider any costs associated with managing residual food waste when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator.</p>
6069	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest	<p>Below we ask for a significant overhaul of the role of food recovery organizations in the data reporting regime; reporting requirements must be re-centered on the generators that must comply with the diversion goal. In broader consultation, we have learned that as written the requirements are simply unworkable as they would</p>	<p>It is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank</p>

Comment Number	Received From	Question/Comment	Response(s)
	Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	violate donor confidentiality. Instead, as food recovery groups have this information, jurisdictions should make requests – solely for pounds out of simplicity and consistency with generator donation metrics – and the food recovery group(s) can make as needed should there be cause to verify a generator report.	could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank. Regarding the comment about donor confidentiality, SB 1383’s reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383’s regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.
6070	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	In both definitions of ‘Food Recovery’ and ‘Food Recovery Service’ the draft regulations recognize that there could be activities conducted with payment and for-profit entities. We ask that CalRecycle emphasize the EPA’s Food Recovery Hierarchy pyramid, which highlights “Feed Hungry People – Donate extra food to food banks, soup kitchens, and shelters” as the primary strategy after “Source Reduction.” Food recovery organizations already occupy niche spaces and rely on the generosity of donors to access a sufficient supply of food. Recovery groups already compete with several secondary markets, from processors to pig farmers, and there are significant concerns with further pressures from revenue-based recovery organizations as the state achieves the goal to reduce the supply of these foods. Therefore we encourage CalRecycle to continue to find ways to minimize the regulatory burden and maximize generator agreement opportunities.	A change to the regulatory text was not necessary for the following reasons. The first reason is that the U.S. EPA Food Recovery Hierarchy identifies food waste diversion practices that extend beyond the scope of SB 1383’s edible food recovery statutory goal. Specifically, the U.S. EPA Food Recovery Hierarchy identifies source reduction of food waste as the most preferred diversion strategy and feeding animals as a key food waste diversion practice as well. Both source reduction of food waste and diverting food waste to feed animals extend beyond the scope of SB 1383’s edible food recovery statutory goal and therefore it would not be appropriate to reference the U.S. EPA Food Recovery Hierarchy in SB 1383’s edible food recovery regulations. In addition, most food banks, soup kitchens, and shelters in California are non-profit food recovery organizations. SB 1383’s statute does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.
6071	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second	Definitions (Section 18982): Article 1 (a) Definitions (18), the definition of edible food: We reiterate our request to strike “unserved and unsold” to prevent gaming of the system – not serving food so that it can be dumped instead of donated. We add that the Conference For Food Protection Food Donation guidelines recommend that only unserved food be recovered for donation, even though it is allowable under federal law. Prepared foods in particular that have been served or sold, which customers have access to are not usually donated and would require strict food safety controls. The “back of house” trays that have not been touched are the standard for prepared donations. There are many food safety concerns if donations came from a hot bar, salad bar, or customer return. Nevertheless, we continue to ask the Department & jurisdictions. to be mindful that food could potentially be labeled ‘served’ in order to avoid compliance with SB 1383.	In an early draft of the proposed regulations edible food was defined as: “Edible food” means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, “edible food” is not solid waste if it is recovered and not discarded.” Several commenters made the argument that this definition was too restrictive, because it described “recoverable food” not “edible food.” Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters’ concerns about the definition of “edible food” being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following: “Edible food” means food intended for human consumption.

Comment Number	Received From	Question/Comment	Response(s)
	Harvest San Mateo/S		<p>(A) For the purposes of this chapter, “edible food” is not solid waste if it is recovered and not discarded.</p> <p>(B) 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.</p> <p>Although the final definition of “edible food” is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities.</p>
6072	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>Article 1 (a) Definitions, a new definition of recoverable food should be inserted that:</p> <p>- We again ask CalRecycle to restore the language used in the June “Concept” document that reflected our prior input that food recovery organizations like food banks are able to follow internal, established “standards and requirements for acceptance related to nutrition or quality when recovered by those organizations. Nothing in this definition shall preclude such organizations from developing more stringent standards....”</p>	<p>CalRecycle would first like to clarify that SB 1383’s statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute does not state that 20% of healthy or nutritious food be recovered. As a result, SB 1383’s regulations do not include requirements that only certain types of food be recovered.</p> <p>CalRecycle does however recognize that a core value of many food recovery organizations and food recovery services is to reduce food insecurity in their communities by rescuing and distributing healthy and nutritious food to help feed people in need. CalRecycle also recognizes that many food recovery organizations and food recovery services have nutrition standards for the food they are willing to accept. To address this, Section 18990.2 Edible Food Recovery Standards and Policies subsection (d) specifies that nothing in SB 1383’s regulations prohibits a food recovery organization or a food recovery service from refusing to accept edible food from a commercial edible food generator. Therefore, nothing in SB 1383’s regulations prohibits a food recovery organization or a food recovery service from following their own internal standards and requirements for acceptance related to nutrition or quality of the food when it is recovered.</p>
6073	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>Article 1 (a) Definitions (24), the definition of food recovery:</p> <p>- We are in strong support of this language.</p> <p>- We suggest to add that the definition conform to the definition in (25) of a food recovery organization: “...collect and distribute for human consumption which otherwise be disposed, where recovered food is first intended for no-cost charitable distribution to communities in need.”</p>	<p>Nothing in SB 1383's statute specifies that recovered edible food shall first be intended for no-cost charitable distribution to communities in need. SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. Adding the commenter’s suggested language to the definition of food recovery would not serve a regulatory function in helping California achieve its 20% edible food recovery goal. Rather, adding the commenter’s suggested language could create barriers toward achieving the 20% edible food recovery goal of SB 1383. SB 1383’s statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.</p>
6074	Goodwin, A., Redwood Empire	<p>Article 1 (a) Definitions (25), the definition of food recovery organization, and (26), the definition of food recovery service:</p>	<p>Nothing in SB 1383’s statute specifies that recovered edible food should first be provided for free to the public for consumption. The statutory goal is that no less than 20% of currently disposed</p>

Comment Number	Received From	Question/Comment	Response(s)
	Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	- As we highlighted in our suggestions on the previous page, we remind CalRecycle of the possible unintended consequences of not explicitly stating that recovered food should be distributed for free to the public for consumption, and request this revision. We offer the additional context that if food generators want to take the federal tax deduction for donated food, it must be provided for free to the ill, needy, or children (See IRS code). Article 1 Definition (76): 'Under no circumstances shall a non-profit charitable organization be considered a 'wholesale food market'.	edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383. Regarding the comment about the wholesale food market definition, a change to the regulatory text was made in response to this comment. Language was added to the regulations to specify that food recovery organizations and food recovery services are not commercial edible food generators. Therefore, food recovery organizations and food recovery services are NOT subject to SB 1383's commercial edible food generator requirements.
6075	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	Article 4 (a)(1)(E) : Please strike 'Hours of operation.' These should not be required on a website since under no circumstances should food be dropped at a food recovery organization without a prearranged agreement or MOU.	CalRecycle removed "hours of operation" from Section 18985.2 in response to this comment and several other comments raising the same concern. The commenter is concerned that including "hours of operation" could lead to commercial edible food generators dropping off food at a food recovery organization without having permission to do so. This change was necessary to ensure that this activity does not occur, and to help protect food recovery organizations from receiving food that they were not expecting to receive.
6076	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA	Article 4 (b)(1)(D): Add this line 'Information that makes it clear they must have an agreement or MOU with a food recovery organization prior to any deliveries or drop-offs.'	CalRecycle provided an explanation in the FSOR in response to this comment. The explanation describes how the requirement for commercial edible food generators to have a contract or written agreement with a food recovery organization or a food recovery service, provides greater protections for food recovery organizations and food recovery services than the previous draft language. For context, the commenter is concerned that commercial edible food generators could self-haul edible food to a food recovery organization that they do not have a contract or written agreement with for food recovery. Donation dumping, and unexpected deliveries and drop offs of food donations are serious issues that can create significant hardships for food recovery organizations and food recovery services. Revisions were made to the regulatory text to address this concern. The FSOR clarifies that commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food

Comment Number	Received From	Question/Comment	Response(s)
	Assn of Food Banks; Weatherby, Second Harvest San Mateo/S		<p>recovery where the contract specifies that the generator is permitted to self-haul edible food during pre-established delivery or drop off times. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off times specified in the contract or written agreement.</p> <p>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 their 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 exact self-haul provisions to include in their contracts or written agreements.</p> <p>CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. The model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and food recovery services from donation dumping and unexpected donations. The model agreement is a template that is intended to be customized based on the needs of food recovery organizations, food recovery services, and commercial edible food generators.</p>
6077	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>Article 9 Section 18990.2 Edible Food Recovery Standards and Policies</p> <p>- (a) A jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a generator or food recovery organization to recover edible food that could be recovered for human consumption.</p> <p>o With the recent passage of AB 2178 (Limon, 2018), local non-profit charities may be required to register and pay fees to their local Environmental Health Departments in order to continue operating. With that in mind, CalRecycle and jurisdiction should coordinate with EHD's about the new food waste diversion goals that local food recovery organizations will be striving to meet. Perhaps this could be included in Article 13; we are open but ask for a response on how to ensure coordination and prevent duplicate regulation.</p>	<p>A change to the regulatory text was not necessary for the following reasons. First, it was unclear what the commenter's concern was regarding duplicate regulation when AB 2178 and SB 1383 have separate and distinct requirements. In addition, the commenter wrote that CalRecycle should "coordinate with environmental health departments about the new waste diversion goals." Throughout the rulemaking process CalRecycle has worked with environmental health departments, the Public Health Alliance of Southern California, and the California Conference of Directors of Environmental Health to help educate environmental health officials about the food recovery goal of SB 1383 and the law's food recovery regulations. CalRecycle is actively engaging with these stakeholders on an ongoing basis. The commenter also requested that CalRecycle add requirements to Article 13, but due to the lack of clarity in the comment itself, it was unclear exactly what the commenter was requesting to be added to Article 13. For these reasons no changes to the regulatory text were made.</p>
6078	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County;	<p>(d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator. In fact, all generators must have agreements in place with food recovery organizations before deliveries or drop-offs and even in that context, any specific delivery can be refused because of quality, condition, lack of space, quality, type, condition, or any other reason.</p>	<p>A change to the regulatory text was not necessary because Section 18990.2. (d), already specifies that nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator. It is not necessary to add language about the reasons why a food recovery organization or service can refuse edible food. The language in section 18990.2. (d) is sufficient to give food recovery organizations and services the authority they seek to refuse edible food.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	We appreciate CalRecycle’s addition of this language, and again insist that it remain included and broadly interpreted by jurisdictions to give recovery organizations the flexibility they need given the diversity of situations that arise.	<p>The FSOR also clarifies that commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery where the contract specifies that the generator is permitted to self-haul edible food during pre-established delivery or drop off times. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off times specified in the contract or written agreement.</p> <p>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 their 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 exact self-haul provisions to include in their contracts or written agreements.</p> <p>CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and food recovery services from donation dumping and unexpected donations. The model agreement is a template that is intended to be customized based on the needs of food recovery organizations, food recovery services, and commercial edible food generators.</p>
6079	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	<p>Article 10 Section 18991.1. Jurisdiction Edible Food Recovery Program</p> <p>- (b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms. Under no circumstances should jurisdictions charge fees or assessments to food banks or other non-profit food recovery organizations.</p> <p>o This language is essential in recognizing the financial and human resource burden that food recovery organizations will face in working to meet the 20% diversion goal, and we are in strong support.</p>	CalRecycle will not identify a specific entity that jurisdictions cannot charge fees to, as this raises an authority issue. However, CalRecycle would like to clarify that the language in Section 18991.1 (b) was included in the regulations to encourage each jurisdiction to establish a sustainable funding source to help fund its food recovery program and food recovery organizations and services operating in the jurisdiction.
8000	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest	<p>Article 10 Section 18991.2. Record keeping Requirements for Jurisdiction Edible Food Recovery Program</p> <p>- Regarding (2), With the passage of AB 2178 (Limon, 2018), local Environmental Health Departments will be required to keep records of what organizations food</p>	A change to the regulatory text was not necessary for the following reasons. First, it was unclear what the commenter’s concern was regarding duplicate regulation. The commenter did not provide additional information to identify if any of the regulations in SB 1383 are the same as the

Comment Number	Received From	Question/Comment	Response(s)
	Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	banks partner with, and documentation directly from non-food bank affiliated non-profit organizations that are serving ready-to-eat food. In an effort to minimize the duplication of record-keeping efforts, we request that local jurisdictions communicate with EHD's to obtain records of the relevant information to avoid duplicate efforts with food banks.	requirements of AB 2178. Additional context needed to be provided before any changes to the regulations could be considered. Regarding the comment about jurisdictions communicating with local environmental health departments, nothing in SB 1383's regulations prohibits a jurisdiction from doing this. In addition, CalRecycle has worked with local environmental health departments, the Public Health Alliance of Southern California, and the California Conference of Directors of Environmental Health to help educate environmental health officials and food inspectors about the food recovery goal of SB 1383 and the law's food recovery regulations. CalRecycle is actively engaging with these stakeholders on an ongoing basis.
8001	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	Article 10. Section 18991.2(2): A list of edible food recovery organizations in the jurisdiction and their edible food recovery capacity o Add: 'and how to contact them to put in place a contract or agreement for food recovery'	This comment pertains to Section 18985.2 Edible Food Recovery Education and Outreach (a)(1)(B). Section 18985.2 (a)(1) requires jurisdictions to develop a list of food recovery organizations and food recovery services operating within the jurisdiction and maintain the list on the jurisdiction's website. The list must be updated annually. The list must include, at a minimum, the following information about each food recovery organization and each food recovery service that it includes: (A) Name and physical address. (B) Contact information. (C) Collection service area. (D) An indication of types of food the food recovery service or organization can accept for food recovery. The regulations already include the requirement that the list include the contact information for each food recovery organization and service that is included on the list. Adding the commenter's proposed requirement would be redundant, because it is already required that the contact information is listed for each food recovery organization and food recovery service. However, if a jurisdiction is inclined to include 'information on how to contact the food recovery organization to establish contract or written agreement for food recovery' with their list, then they may do so. As stated in Article 9, Section 18990.1 (a), nothing in this chapter is intended to limit the authority of a jurisdiction to adopt standards that are more stringent than the requirements of this chapter, except as provided in Subdivision (b) of Section 18990.1.
8002	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional	Article 10 Section 18991.3. Commercial Edible Food generators: o (b)(1) and (2) are critical, and we strongly support their inclusion with the modification of needing an agreement. It is our interpretation that this is permissive of generators and recovery organizations agreeing to contractual terms that would enable recovery groups to charge for their recovery costs – though that would have to be negotiated between the parties. If this is not correct, we urge in the strongest possible terms that language be included that clarify this.	To clarify, it is at the discretion of food recovery organizations, food recovery services, and commercial edible food generators to determine the specific provisions to include in their contracts and written agreements for food recovery. Nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.

Comment Number	Received From	Question/Comment	Response(s)
	Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S		
8003	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	Article 10 Section 18991.4. Record Keeping Requirements For Commercial Edible Food Generators: regarding (a) (3) (C) -- We request to modify this line. Many donors are on regular schedules, and this regulation will often be consistent with and reinforce those practices. Yet, for infrequent donors, donations can vary greatly based on factors such as inventory, season, weather conditions and consumer demand. Likewise, food recovery organizations are sometimes asked to be "on call," meaning they only pick up when asked. Therefore it can be difficult in some cases to establish a regular frequency, and it is not practical or helpful to track this metric.	Some commenters requested that additional language be added to the regulations to address 'on-call' or 'one-time' donors. No commercial edible food generators will be one-time donors. If they only donate once, then they will very likely not be in compliance with SB 1383's commercial edible food generator requirements. In addition, it is anticipated that the majority of commercial edible food generators will not be infrequent donors. They will have edible food to donate on a regular basis. Therefore, some kind of frequency for collection or self-haul must be established and documented. Maintaining a record of the established a frequency that edible food is collected or self-hauled is necessary because this information can be used to help jurisdictions determine if a commercial edible food generator is recovering the maximum amount of edible food that would otherwise be disposed. CalRecycle would like to clarify that nothing prohibits a food recovery organization or a food recovery service and a commercial edible food generator from establishing more than one frequency to account for changes in the amount of edible food available. For example, a local education agency could have one established frequency for collections during the school year, and a different established frequency during the summer months when school is not in session and there is less food to recover.
8004	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	Article 10 Section 18991.4. Record Keeping Requirements For Commercial Edible Food Generators: regarding (a) (3) (D) --We request to strike this line, in order to maintain a single metric – pounds – to avoid the confusion of multiple measures and creating the need to translate/reconcile across different metrics.	CalRecycle agrees with this comment and removed the following language from the regulatory text: "2. An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered." By removing this language, all commercial edible food generators will be required to track pounds of food recovered. This revision will eliminate confusion of multiple metrics, and also make commercial edible food generator recordkeeping more consistent as they will all be required to track pounds.
8005	Goodwin, A., Redwood Empire Food Bank; Coffaro,	Article 10 Section 18991.5. Edible Food Recovery Services and Organizations: regarding (a) -- - In further consultation with member food banks, 6 tons is a low threshold to conform to the small capacity groups the Department seeks to prevent	The 6-ton threshold was removed because it created an 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

Comment Number	Received From	Question/Comment	Response(s)
	D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	over-regulation. In addition, there are significant restrictions on donation data that would make compliance with the regulations, as written, impossible for food banks and member agencies.	<p>edible food generator could claim that they have a contract 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 verify if the commercial edible food generator was in compliance.</p> <p>To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold from the regulatory text. The final regulations 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.</p> <p>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 the 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% edible food recovery goal. 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.</p> <p>Regarding the comment about restrictions on donation data, CalRecycle would like to clarify that SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p>
8006	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second	Article 10 Section 18991.5. Edible Food Recovery Services and Organizations: regarding (a) (4) -- we request the simplicity and consistency of pounds. The metric of meals is based on a conversion from pounds, and represents an estimated average. We recommend tracking pounds only, as it will be more consistent and simpler to track across many organizations. It would be burdensome on existing staff to have to report these numbers on a regular basis, and would introduce confusion in matching donated vs. transported vs. recovered meals. Finally, meals can be calculated from pounds and is simply unnecessary to report.	CalRecycle agrees with this comment and removed the following language from the regulatory text: "2. An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered." By removing this language, all commercial edible food generators will be required to track pounds of food recovered. This revision will eliminate confusion of multiple metrics, and also make commercial edible food generator recordkeeping more consistent as they will all be required to track pounds.

Comment Number	Received From	Question/Comment	Response(s)
	Harvest San Mateo/S		
8007	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	Article 11: Section 18992.2 Edible food recovery Capacity: regarding (a) -- In (a), we strongly support the capacity planning process as outlined but urge that counties coordinate not just with cities and regional agencies but also with “all relevant edible food recovery stakeholders, including all of but not limited to food recovery organizations, generators and haulers. Currently, such stakeholder involvement would occur only after the process outlined in (b) (2), suggesting a planning scenario that would exclude the organizations with the expertise necessary for an effective planning process as outlined.	A change to the regulatory text was not necessary because it is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations and food recovery services. Section 18992.2 states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. These are the key stakeholder groups that must be consulted with in order for effective capacity planning to occur. However, nothing in the regulations would prohibit a county from also consulting with other relevant entities such as commercial edible food generators and haulers to help them assess their edible food recovery capacity.
8008	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	In (b), we strongly support and urge that this language remain in the final regulations. Capacity is essential to achieving the state’s goal, and jurisdictions must include implementation schedules that prioritize how to provide revenues that can support the real costs necessary to divert additional food in a food safe manner – the trucking, cold storage, fuel, staffing and administrative costs that food banks and other emergency food organizations struggle to provide already.	This comment is in support of language that was added to Section 18991.1 Jurisdiction Edible Food Recovery Program. The language specifies that a jurisdiction may fund the actions taken to comply with Section 18991.1 through franchise fees, local assessments, or other funding mechanisms.
8009	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood,	If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction within that county that lacks capacity shall.: o A small but important typographical change.	Some commenters noted that there was a minor grammar error in Section 18992.2 Edible Food Recovery Capacity (b). A minor grammar edit was made to the regulatory text in response to this comment. This edit was necessary to ensure that the requirement is interpreted accurately. The minor grammar edit that was made can be found below. (b) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction within that county that lacks capacity shall:

Comment Number	Received From	Question/Comment	Response(s)
	M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S		
8010	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	Article 13 Section 18994.2. Jurisdiction Annual Reporting: As with Article 10 Section 18991.5, we recommend doubling the 6 ton threshold.	<p>While some commenters requested that the threshold be increased from 6 tons to 12 tons, other stakeholders recommended removing the threshold completely so that any food recovery organization or food recovery service that contracted with, or had a written agreement with a commercial edible food generator would be required to maintain records and report to the jurisdiction.</p> <p>Another commenter further supported the recommendation to eliminate the 6-ton recordkeeping threshold by stating that the primary focus relative to edible food recovery must be the safe handling of food and protection of public health and safety. The commenter further noted that the ability to track the source of a food borne illness outbreak rests on the ability to trace food product throughout the food supply chain. By allowing a food recovery organization to avoid maintaining a record of where the food was obtained, a serious gap in the investigative traceability process is created. The commenter continued their argument by stating that in their many years of experience working as a food recovery organization, food recovery services and food recovery organizations that are not large enough or are incapable of maintaining a record of the source of the donated food are likely incapable of consistently handling and distributing donated food safely.</p> <p>CalRecycle carefully reviewed each comment that requested to increase the threshold and each comment that requested that the threshold be removed. Upon review and evaluation, a determination was made to remove the recordkeeping threshold for the following reasons. 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 maintain a record 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 the commercial edible food generator recordkeeping section of the regulations.</p> <p>Although all commercial edible food generators are required to maintain records of the food that is recovered from them, in a previous draft of the regulations, not all food recovery organizations and food recovery services were required to maintain records. In a previous 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 commercial edible food generators.</p> <p>The 6-ton threshold was removed because it created an 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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>edible food generator could claim that they have a contract 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 verify if the commercial edible food generator was in compliance.</p> <p>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.</p> <p>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 the 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% edible food recovery goal. 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.</p>
8011	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	18994.2 must be struck as written, and replaced with language that "jurisdictions may request to review and audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported.." Food recovery organizations already track and could make records available upon request by the jurisdiction or State (in order for the jurisdiction or State to reconcile with food generator reporting as part of an audit or compliance review). Moreover, for many food recovery groups this information is tracked but proprietary under existing agreements with generators, which this requirement could disrupt and have the unintended consequence to prevent donations. We urge that the reporting requirement occur solely with the food generator, not with the food recovery organization, for consistency and ease of regulatory oversight. If reporting flows from the food recovery organization up to the local jurisdiction, then up to the State, reconciliation with the food generators' output will be very difficult. Food generator reporting would be provided to the State, local jurisdictions and food recovery organizations.	<p>Regarding the comment, "jurisdictions may request to review and audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported." CalRecycle would like to clarify that there are no requirements in the regulations that mandate the reporting of such information. If a public agency does decide to retain copies of commercial edible food generator records or food recovery organization and food recovery service records for enforcement purposes or audit purposes, they would be subject to the Public Records Act as well as any applicable provisions exempting the disclosure of proprietary or trade-secret information.</p> <p>Regarding the comment requesting that commercial edible food generators be required to report, a change to the regulatory text was not necessary. A text change was not necessary because it is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.</p>
8012	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County;	Article 14, Section 18995.1 Jurisdiction Inspection and Enforcement Requirements (2): Unclear what food recovery organizations would be complying with in this section.	To clarify, any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators pursuant to Section 18991.3 (b) is required to maintain records and report information to the jurisdiction. Therefore, any food recovery organization or service that has a contract or written agreement pursuant to Section 18991.3 (b) is also subject to inspection by the jurisdiction to verify that they are in compliance with the SB 1383 recordkeeping and reporting requirements that they are subject to.

Comment Number	Received From	Question/Comment	Response(s)
	Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S		CalRecycle would also like to clarify that the regulations specify that food recovery organizations and services are subject to inspection, and since an “inspection” is defined in Section 18982 to include the review of applicable records, food recovery organizations and services 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 food recovery services’ and organizations’ compliance with Section 18991.5.
8013	Goodwin, A., Redwood Empire Food Bank; Coffaro, D., Second Harvest Food Bank of Orange County; Hall, V., Feeding San Diego; Flood, M., LA Regional Food Bank; Floros, San Diego Food Bank; Cheyne, CA Assn of Food Banks; Weatherby, Second Harvest San Mateo/S	Article 16. Section 18997, Table 1 (last row): Non-profit food recovery organizations should not be penalized if they are keeping records in good faith	The only recordkeeping requirements for food recovery services and organizations are established in Section 18991.5. This section establishes minimum recordkeeping requirements for food recovery services and organizations that elect to establish a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b). A food recovery service or organization that does not have a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b) is not subject to the recordkeeping requirements. A food recovery service or organization may wish to consider any costs associated with recordkeeping when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator, thus subjecting them to the recordkeeping requirements of the regulations. Furthermore, the timeline for issuing penalties provides ample time for a food recovery organization or service to achieve compliance with the recordkeeping requirements. An entity may have up to seven months to come into compliance with a violation such as recordkeeping. CalRecycle believes this provides sufficient time for an entity acting in good faith to come into compliance with the requirements.
2053	Gunder, Dana; NextCourse	(18) Edible food: The definition of “unsold or unserved food” is in fact a definition of recoverable food, not edible. Under no dictionary is the term edible as restrictive as in this draft. It is an incorrect interpretation of the law to define edible only as what’s recoverable. The regulations should create two definitions. Edible food would set the larger number, from which 20% needs to be recovered. Recoverable food would be what is actually required to be recovered throughout the rest of the regulation: o Edible Food: The Food Loss and Waste Protocol uses this definition for food, which could be used for Edible Food: “Any substance—whether processed, semi-processed, or raw—that is intended for human consumption. “Food” includes drink, and any substance that has been used in the manufacture, preparation, or treatment of food. “Food” also includes material that has spoiled and is therefore no longer fit for human consumption. It does not include cosmetics, tobacco, or substances used only as drugs. It does not include processing agents used along the food supply chain, for example, water to clean or cook raw materials in factories or at home.”	In an early draft of the proposed regulations edible food was defined as: “Edible food” means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, “edible food” is not solid waste if it is recovered and not discarded.” Several commenters made the argument that this definition was too restrictive, because it described “recoverable food” not “edible food.” Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters’ concerns about the definition of “edible food” being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following: “Edible food” means food intended for human consumption. (A) For the purposes of this chapter, “edible food” is not solid waste if it is recovered and not discarded.

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> o Recoverable Food: The current definition of “edible food” could work for this: “Unsold or unserved food that is fit for human consumption...” 	<p>(B) 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. Although the final definition of “edible food” is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities.</p>
2054	Gunder, Dana; NextCourse	(25) Food recovery organization: I recommend removing the word “primarily” as I worry this would exclude organizations such as shelters, which are a common destination for food donations but their primary purposes is to provide shelter.	CalRecycle agrees with this comment and revised the regulatory text. The term “primarily” was removed from the definition of "food recovery organization" to help ensure that organizations that are common destinations for food donations but their primary purposes is to provide some other service (e.g. homeless shelters, faith based organizations that serve meals), are not excluded from the definition.
2055	Gunder, Dana; NextCourse	(27) Food service distributor: This definition is confusing as what is described is primarily a food service provider. Distributors play a different function in the supply chain. I recommend calling this food service provider, and creating a separate definition for food distributors.	<p>In a previous draft of the regulations, food service providers and food distributors were included under one definition. The term used to identify these entities was “food service distributor.” Due to this definition lacking clarity, a commenter asked CalRecycle to provide examples of "food service distributor." Another commenter recommended that the term "food service distributor" be removed from the regulations and that separate definitions for "food distributor" and "food service provider" be used instead.</p> <p>CalRecycle revised the regulatory text in response to these comments. Recognizing that food distributors and food service providers have different functions in the food supply chain and often perform very different roles, the term "food service distributor" was removed and replaced with two separate definitions; one definition for "food distributor," and a separate definition for "food service provider." The final definitions are below:</p> <p>“Food distributor means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.”</p> <p>“Food service provider means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.”</p>
2056	Gunder, Dana; NextCourse	<p>(73) Tier One and (74) Tier Two: I support a phased roll out, but believe the two lists here could be improved. Recommend:</p> <ul style="list-style-type: none"> o Tier One: Supermarket, Grocery store, Food Service Provider (per note above), Distribution Centers, Food Preparatory Facilities (to include commissaries, fresh-cut processors, and ready-to-eat food processors), and Hotels (particularly if they are chains with many hotels across the state) o Tier Two: All others 	<p>The regulations are structured to place direct requirements on entities that dispose large quantities of edible food that could be recovered for human consumption. These entities are identified in the regulations as tier one and tier two commercial edible food generators. Placing direct requirements on these entities should be sufficient for California to achieve the 20% edible food recovery goal. Food facilities and food service establishments that are not tier one or tier two commercial edible food generators are exempt from SB 1383’s regulations because they typically have smaller amounts of edible food available for food recovery. As a result, additional generators were not added to the regulations.</p> <p>Regarding the recommendation to move hotels to tier one. Hotels remained in tier two due to the larger amounts of prepared foods that hotels typically have available for food recovery. Prepared foods can be difficult to recover and capacity to be able to handle this food is lacking throughout the state. As a result, a determination was made that hotels should remain in tier two.</p>
2057	Gunder, Dana; NextCourse	Source Reduction: This section misses an opportunity to reward or incentivize source reduction. Given the EPA’s Food Recovery Hierarchy, businesses that have	SB 1383’s statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a

Comment Number	Received From	Question/Comment	Response(s)
		<p>focused and succeeded in achieving significant source reduction should be rewarded by having donation be optional. For smaller businesses in particular, if they've achieved a great deal of efficiency, the quantities they have available may not warrant the logistics required to donate it. In order to include this component in the regulations, I recommend a "De Minimus" clause that puts the burden on the generator to demonstrate that they have reached a significantly lower food waste generation level than a common benchmark for their industry. Over time, the state will have increasingly better benchmarks from reporting requirements. Therefore, it could be structured that benchmarks are created through the initial waste characterization study, and then updated sometime in 2023-2025 after records are collected.</p>	<p>food waste prevention target. As a result, CalRecycle will not require commercial edible food generators or jurisdictions to prevent or source reduce the amount of edible food they generate. CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for food recovery that are not desired by food recovery organizations or services. One example would be a generator having food available that does not meet the nutrition standards of food recovery organizations or food recovery services. To help address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste.</p> <p>To clarify, this is not a requirement for commercial edible food generators or jurisdictions to source reduce the amount of surplus edible food they generate. This is an education requirement intended to help generators learn how they can prevent the creation of food waste. Providing this education is critical to help generators that struggle to find outlets for their currently disposed edible food, because these generators are still required to comply with SB 1383's commercial edible food generator requirements.</p> <p>Adding a section for commercial edible food generator exemptions and de-minimis waivers to the regulatory text was not necessary because the regulations are already structured so that many food facilities and food service establishments are exempt from compliance due to the smaller amounts of edible food they typically dispose. Only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or tier two commercial edible food generator is exempt from SB 1383's edible food recovery regulations.</p> <p>CalRecycle recognizes however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this, CalRecycle revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3 extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. And (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.</p>
2058	Gunder, Dana; NextCourse	<p>State record collection and reporting: It is not clear from this regulation that records will in fact be collected and reported on. Adding a clause to document a requirement for this will ensure both jurisdictions and the state will indeed report on progress.</p>	<p>The regulations specify that food recovery organizations and services are subject to inspection, and since an "inspection" is defined in Section 18982 to include the review of applicable records, food recovery organizations and services 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 be able to report specific information to CalRecycle and also critical for jurisdictions to be able to monitor food recovery services' and organizations' compliance with Section 18991.5.</p> <p>In addition, Section 18994.2 Jurisdiction Annual Reporting mandates that a jurisdiction shall report information regarding its implementation of the edible food recovery requirements of</p>

Comment Number	Received From	Question/Comment	Response(s)
			Article 10 to CalRecycle. In response to this comment CalRecycle would like to clarify that jurisdictions are required to report the total pounds of edible food recovered by food recovery organizations and services pursuant to Section 18994.2 Subdivision (h)(2)(A). CalRecycle will then collect and analyze the data reported from jurisdictions to measure the state's progress toward achieving the 20% edible food recovery goal.
2059	Gunder, Dana; NextCourse	18991.3 (b): Recommend this say "...generators shall arrange to recover the maximum amount of recoverable food that...."	CalRecycle revised the regulatory text in response to this comment. The regulatory text was revised to the following: "Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed." If Section 18991.3(b)'s 'maximum amount' language was not included in the regulations there would be a loophole where commercial edible food generators could for example, recover 1% of their edible food that would otherwise be disposed and still be in compliance. The 'maximum amount' language was added to the regulations to eliminate this loophole for non-compliance and to ensure that commercial edible food generators arrange to recover the maximum amount of their edible food that would otherwise be disposed, which will be critical for helping the state achieve SB 1383's 20% edible food recovery goal.
2060	Gunder, Dana; NextCourse	Supply and Demand: As of now, we have no way to know if there is enough demand for food donation of all the food that would be required to be donated as part of this law. Therefore I encourage you to ensure that there be nothing to prohibit sale of the recovered food, as that is another outlet to provide it for human consumption.	A change to the regulatory text was not necessary because nothing in SB 1383's edible food recovery regulations prohibits the sale of recovered food.
2028	Haas-Wajdowicz, Julie; Antioch	The following is the written comments to back up my verbal comments at the hearing today. For those jurisdictions, such as Antioch, that don't already offer food waste diversion in our franchised service, the timeline for implementation once the formal rule-making process is complete is impossibly tight. As I also mentioned during the informal rule-making comment period, our franchise agreement term does not end until 2025. This new regulation will require us to negotiate a contract extension at a time when we should be focusing our energies on going out to bid for services. Instead, we will be forced to negotiate new rates and extend the existing franchise agreement potentially another 10 years. Not being able to go through a competitive bid process makes it hard to justify the 40-50% rate increase facing our community to implement this program.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
2029	Haas-Wajdowicz, Julie; Antioch	I am requesting that you consider alternative programs for interim implementation and good faith efforts/extended deadlines when evaluating compliance and	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB

Comment Number	Received From	Question/Comment	Response(s)
		developing corrective action plans that will allow jurisdictions to increase organic waste reduction/diversion within realistic timelines for local governments.	1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
4019	Haller, A, Environmental Diversion Solutions	The fact that CalRecycle is still using data almost 10 years old to make the case for organic waste processing is shameful. With the amount of tax dollars poured into CalRecycle we can't get more up to date data? New or crossover technologies that provide real solutions that work in concert with Mother Nature are coming to market all the time and yet none are ever considered or even have a path to become an option with state diversion credits available which holds CA tax payers hostage to paying for over millions for AD plants when much more economical options are available that actually provide long term benefits to healing our climate!	Comment noted. The commenter is expressing an opinion on issues outside of the regulatory language or regulatory process that CalRecycle has undertaken.
4020	Haller, A, Environmental Diversion Solutions	It's fact that pyrolysis along with 6 other technologies are proven to be carbon negative! Not reduced carbon, non carbon neutral, CARBON NEGATIVE! The IPCC's recent Special Report listed biochar and pyrogenic carbon capture & storage (PyCCS) as one of only six negative emissions technologies (NET) that may be capable of re-balancing carbon. Anaerobic digestion cannot say that. The toxic digestate left over from anaerobic digestion processes should NOT be put in landfills anymore than any other toxic waste whether there is methane gas attached to it or not! All we're gonna do is exchange one poisonous material for another with a whole new set of problems. What are we really doing here? Pyrolysis technologies take organic waste material and reduce it by a 90% in a matter of hours which is huge for congested cities and super small mountain towns that are logistically challenged because this pyrolysis systems can be small or large. Instead of toxic AD digestate, pyrolysis system provide valuable biochar output. Biochar has been repeatedly proven to be the best substance known to man to sequester carbon. Though it's been around for centuries, we've only come to rediscover the benefits. It helps to heal soils, reduce water consumption, offset nutrient pollution, provides healthier animal bedding and so much more. Currently we have projects with systems that are processing upwards of 150 tons of organic waste per day. Again, those 150 tons are reduced by 90% in a matter of hours not weeks or months. The manufacturer is paying clients that purchase these systems \$100.00 per ton for their biochar output made from their organic waste. Organic waste has just turned into organic revenue. The same organic waste that was costing them millions to get rid of is now making them money. It's a closed loop design. This is a cross over technology used in the farming industry for years to help	CalRecycle concurs that maintaining flexibility for other recovery processes, not specifically identified in section 18983.1(b), which may still constitute a reduction of disposal of organic waste and can achieve equivalent greenhouse house gas reduction that meets or exceeds the baseline of 0.30 MTCO2e per short ton. Therefore, the proposed regulations include Section 18983.2 Determination of Technologies That Constitute a Reduction in Landfill Disposal as a pathway for including additional activities and technologies.

Comment Number	Received From	Question/Comment	Response(s)
		<p>reduce animal manure and it easily fits into the organic waste industry for municipalities! The systems fit neatly within most waste hauling transfer stations or large generator factories to handle all the organic waste on site or at the local transfer station or MRF. 90% material reduction in hours.</p> <p>We are trying to reinvent the wheel with organic waste processing when we've had solutions all along. We've just been looking in the wrong places. Farmers have much more experience handling organic waste than waste hauling companies. Waste hauling companies make enough money and I don't feel the people of California need to support fueling their fleets with the very materials they charge us to take away when those same materials could be used for helping to off set climate change in a real way that has long term value to future generations. AD cannot do that. It's these types of options that are going to truly help us off set climate change with a domino affect of benefits. If we can reduce our organic waste by 90% within our franchised waste transfer stations, we reduce long hauling traffic, GHG's and AD cannot say that. The output from pyrolysis systems helps heal soils and reduce water consumption; AD cannot say that. Pyrolysis systems have nothing that needs to go back to landfill but AD cannot say that. Pyrolysis systems can also clean up the toxic sludge left over from AD plants and keep it out of landfills and AD definitely cannot say that.</p> <p>I understand that the waste hauling industry is now heavily leveraged into methane gas AD technologies so in some ways we're kind of stuck but why would continue to build on this idea and expand it when it's not a true solution to helping us solve climate change. All AD is doing is exchanging one problem for a different problem. How can I be the only one who sees this? Municipalities and waste water treatment plants are being held hostage and forced to pay over \$100 million for anaerobic digestion plants when they don't want them but it's the only way CalRecycle will allow diversion credits that are required by state mandate when pyrolysis technologies range in the \$10-\$20 million dollar range do a better job of processing the same materials and actually work to stop climate change and have nothing that needs to go to landfill. Please stop this madness.</p> <p>Finally, the current recycling market that is struggling so hard can also be helped by pyrolysis technologies because all paper, cardboard, waxed cardboard, etc that has no recycle value and yet needs to be diverted from landfill can be processed through pyrolysis systems and made into valuable biochar that can benefit the communities where the organic waste was originally generated or sold to market. What a concept right? The problem is it's not a concept, it's being done in the mid west and abroad and California has it's head in AD sludge because if you keep this up, there won't be anymore sand. We're losing our forests, our farming, when are state agencies gonna wake up and actually see the forest from the trees and do something to stop this insanity. If you can't get rid of anaerobic digestion facilities then at least offer a path for other options that work so municipalities and jurisdictions can get the diversion credit they need to be compliant opposed to</p>	

Comment Number	Received From	Question/Comment	Response(s)
		being held hostage to AD or compost because not all are the same and we need options badly!	
5084	Hansen, K. California Restaurant Association	This legislation set out to achieve the very important goal of eliminating short-lived climate pollutants. The CRA understands and respects this goal. The inclusion of repurposed food from restaurants, however, is not aligned with the bill's intent and not a tenable proposition for restaurants. Whether food is repurposed for consumption or recycled achieves the same result in terms of methane reduction, which is clearly the goal of SB 1383 (Lara) as evident in the bill's declarations and findings.	Requiring commercial edible food generators to recover their edible food that would otherwise be disposed is in direct alignment with SB 1383's edible food recovery goal. SB 1383 mandates that CalRecycle adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. Regarding the commenter's argument, "whether food is repurposed for consumption or recycled achieves the same result in terms of methane reduction," this argument is incorrect. The methane emissions reductions achieved through food recovery in most cases are greater than the emissions reductions achieved through other food waste diversion strategies such as sending food waste to composting operations and anaerobic digestion facilities. If edible food can be recovered to help feed people in need then it should be, especially when one out of every eight Californians is food insecure, and one out of every five children in California is food insecure. Furthermore, when edible food is not consumed all of the resources that went into growing, harvesting, manufacturing, transporting, distributing, and storing the food are also wasted.
5085	Hansen, K. California Restaurant Association	There are several additional challenges with this aspect of the regulation as well. There is no existing infrastructure to effectuate this for the more than 90,000 food service establishments that exist in the state. While the final draft of the Short-Lived Climate Pollutants regulations does outline a process for local jurisdictions to establish the necessary infrastructure to recover organic waste and edible food recovery programs, our concern remains that the amount of time required for the build out of these facilities and programs is not adequately provided for in the regulations. Not to mention, there are numerous public health challenges with repurposing food for consumption and	To help achieve the statewide 20% edible food recovery goal, SB 1383's regulations include edible food recovery capacity planning requirements. In addition, Section 18991.1 (a)(4) includes a requirement that jurisdictions must increase edible food recovery capacity if it is determined that sufficient capacity does not exist. Assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. It is at the discretion of the jurisdiction to determine what jurisdiction entity is best suited to assess edible food recovery capacity and ensure that compliance with this regulatory requirement becomes a part of their scope. Regarding the comment that there are more than 90,000 food service establishments in California, CalRecycle would like to clarify that only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or a tier two commercial edible food generator is exempt from SB 1383's regulations. CalRecycle would also like to clarify that only restaurants with 250 or more seats or a total facility size equal to or greater than 5,000 square feet are subject to SB 1383's commercial edible food generator requirements, and they are not required to comply until January 1, 2024. CalRecycle does recognize however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this issue, CalRecycle added language to Section 18991.3 to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3, extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. And (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle would also like to mention that as a state agency we are heavily focused on increasing edible food recovery infrastructure and capacity in California. CalRecycle’s Food Waste Prevention and Rescue Grant Program funds food waste prevention and food rescue projects across the state. To date, CalRecycle has awarded \$20 million dollars to over 60 grantees.</p>
5086	Hansen, K. California Restaurant Association	<p>Article 1 – Definitions The “Tier two commercial edible food generator” is defined as a commercial edible food generator that is a restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet. Defining a size of a restaurant by the total number of seats is arbitrary and in cases of bench seating it can be a subjective determination. Additionally, seats in a restaurant are subject to change and do not reflect the accurate amount of organic waste generated by a restaurant. We would encourage Cal Recycle to consider revising the definition to remove the reference to seating and instead use occupancy numbers. The fire marshal determines the occupancy standard for restaurants and this is an acceptable way to define the size of a restaurant for the purposes of this regulation.</p>	<p>The threshold specified for restaurants was developed through in-depth analysis of restaurant food waste data, researching restaurants that already have robust food donation programs in place, consultations with food recovery organizations and services in California that recover food from restaurants, consultations with local health departments, and input from the California Department of Public Health. Upon review of data and feedback from stakeholders, CalRecycle established the threshold in an effort to be consistent with environmental health inspection metrics that are used. Using square footage and seating as the threshold could serve to help jurisdictions identify restaurants that meet the threshold by looking at their food facility permit records. Changing the threshold to occupancy could make it very difficult for jurisdictions to identify restaurants that must comply with SB 1383. Furthermore, food recovery and food waste disposal rate data for California restaurants based on the occupancy of a facility was not available to support the proposed change.</p> <p>CalRecycle would also like to mention that a different commenter requested making the restaurant threshold more stringent. In response to that comment CalRecycle clarified that placing direct requirements on tier one and tier two commercial edible food generators should be sufficient for California to achieve the 20% edible food recovery goal. Restaurants that do not meet the 250 or more seats or a total facility size equal to or greater than 5,000 square feet threshold are exempt from SB 1383’s commercial edible food generator requirements because they typically have smaller amounts of edible food that would otherwise be disposed available for food recovery. As a result, the threshold for restaurants was not revised to include smaller restaurants with fewer seats and a reduced square footage.</p>
5087	Hansen, K. California Restaurant Association	<p>Article 3 – Mandatory Organic Waste Collection Services Thank you for providing for the provision to allow jurisdictions to grant de minimis waivers and exemptions. As we have previously stated, restaurants are judicious with the food that they use and strive to limit the amount of food waste. The de minimis waiver provision takes this fact into account and provides a waiver from these requirements for a restaurant that has less than two cubic yards of waste and less than 20 gallons of organic waste per week. Restaurants are often in leased space in older commercial buildings and may not have the physical space necessary to accommodate the required containers in this regulation. We appreciate the inclusion of a physical space waiver to address this concern. Additionally, restaurants in rural settings may not have the frequency of collection services available to them as restaurants in urban cities. The language in this section providing for a collection frequency waiver addresses this concern.</p> <p>We are concerned with our members ability to comply with Section 18984.9 (b)(1) given the space limitations restaurants have. Restaurants have a limited amount of physical space and extremely little, if any, is not already being utilized in the kitchen or for customer dining. There would be a cost impact, possible construction needs,</p>	

Comment Number	Received From	Question/Comment	Response(s)
		and logistical hurdles upon our members to redesign their individual waste receptacle systems to comply with this regulation. We urge Cal Recycle to remove this section of the regulation.	
5088	Hansen, K. California Restaurant Association	<p>Article 4 – Education and Outreach</p> <p>The Short-Lived Climate Pollutants regulation is going to dramatically change the way organic waste is recycled and edible food is recovered in California. This regulation will require a lot of education and outreach on behalf of local jurisdictions to ensure all businesses are properly informed. Section 18985.1 (d) should require jurisdictions to provide educational information through both print and electronic media and by making direct contact with organic waste generators through workshops, meetings and on-site visits.</p>	
5089	Hansen, K. California Restaurant Association	<p>Article 9 – Locally Adopted Standards and Policies</p> <p>The goals of this legislation are substantial and will require great effort by local governments, haulers, and generators to meet them. Having a uniform, statewide regulatory scheme is critical to ensure the necessary level of compliance is achieved to hit those goals. The draft regulation should not allow local governments to enact their own regulations that deviate from the stringent standards in the current draft.</p>	A change to the regulatory text is not necessary. Public Resources Code Section 42654 mandates that “this chapter shall not limit the authority of a local jurisdiction to adopt, implement, or enforce requirements in addition to those set forth in the regulations adopted pursuant to this chapter.” The statute added by SB 1383 requires that this section is necessary to include in the regulations.
5090	Hansen, K. California Restaurant Association	We are extremely concerned with the limited number of food recovery organizations currently in the market place and their capacity to accept and properly hold the edible food that this regulation requires to now be recovered. The provision in Section 18990.2 (d) which allows for an edible food recovery service or organization to refuse to accept edible food from a generator does not adequately address the lack of these organizations in a way that is fair to restaurants. In Base Table 10, the SCLP regulations establish a series of fines for Tier Two commercial edible food generators who fail to arrange to recover edible food. It is not sound public policy to fine Tier Two commercial edible food generators for failing to arrange to recover edible food when Section 18990.2 (d) allows edible food recovery services to refuse to accept edible food. Section 18990.2 (d) is problematic and needs to be removed from the final regulation.	A change to the regulatory text is not necessary. A text change is not needed because SB 1383 requires jurisdictions to implement edible food recovery programs, which includes the requirement that a jurisdiction shall increase edible food recovery capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs. The regulations are structured so that jurisdictions will be required to begin edible food recovery capacity planning in 2022. Restaurants with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet, are tier two commercial edible food generators and will not be required to comply until 2024. That gives the jurisdictions two years to build capacity (if needed) from 2022-2024, and tier two commercial edible food generators an additional two years to prepare for compliance. For these reasons, no changes to the regulations will be made. Regarding the comment concerning section 18990.2 (d), a change to the regulatory text is not necessary. Tier two commercial edible food generators must arrange to recover edible food. Whether a particular edible food recovery service refuses to accept the edible food is irrelevant to the tier two commercial edible food generator’s obligation to find a recovery service that will accept the food.
5091	Hansen, K. California Restaurant Association	<p>Article 10 – Food Generators and Food Recovery</p> <p>We urge Cal Recycle to revise Article 10 to include a provision to allow jurisdictions to grant de-minimis waivers and exemptions for edible food donations. Cal Recycle has already acknowledged the need for a de-minimis waiver for businesses that generate less than two cubic yards of waste and less than 20 gallons of organic waste per week in Article 3 of the regulation. As we previously stated, restaurants do not have surplus food on hand. Any restaurant with a small amount of food left over from their meal service such as a half a loaf of bread and a few vegetables</p>	Adding a section for commercial edible food generator exemptions and de-minimis waivers to the regulatory text was not necessary because the regulations are already structured so that many food facilities and food service establishments are exempt from compliance due to the smaller amounts of edible food they typically dispose. Only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or tier two commercial edible food generator is exempt from SB 1383’s commercial edible food generator regulations.

Comment Number	Received From	Question/Comment	Response(s)
		<p>would be required to take on the costs to contract with a food recovery service. A de-minimis waiver would adequately address these concerns.</p>	<p>CalRecycle recognizes however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this issue and the concern raised in this comment, CalRecycle revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3 extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.</p> <p>Regarding the comment that “restaurants do not have surplus food on hand.” CalRecycle’s generator-based waste characterization data is in direct conflict with this statement. The Department’s waste characterization data shows that restaurants in California collectively dispose of significant amounts of food waste annually. Some of this food could have potentially been recovered for human consumption. In addition, CalRecycle has a Food Waste Prevention and Rescue Grant Program that has awarded 20 million dollars to over 60 grant projects across the state. Most of the grantees are food recovery organizations that report information about the pounds of food they recover, and where the food was recovered from. Through our grant program reporting we have seen many restaurants donating their surplus food to help feed people in their communities. Based on the information we have received from food recovery organizations, there are restaurants in California that have surplus edible food to donate, and many restaurants in California are already doing great work donating their surplus edible food to support their local community.</p>
5092	Hansen, K. California Restaurant Association	<p>Section 18991.3 (b) (1-2) mandates a cost increase to restaurants to comply with this regulation. Contracting with a food recovery service to collect edible food donations will come at a cost to restaurants. We are concerned that any possible tax offset from the donation will be negated by the cost to purchase the food and the cost to contract with a food recovery service to collect any edible food to be in compliance with this regulation.</p> <p>Secondly, it is not feasible for restaurants to self-haul edible food donations to a food recovery organization. It would be an impractical mandate and another cost to restaurants to provide for transportation, pay employees to deliver the edible food donations, and maintain proper health and safety requirements for that food. Once again, any favorable tax treatment that could come from the donated edible food will not be enough to cover these new costs- nor address the impractical logistical hurdles to succeed.</p>	<p>Regarding the comment, “we are concerned that any possible tax offset from the donation will be negated by the cost to purchase the food and the cost to contract with a food recovery service to collect any edible food to be in compliance with this regulation,” a restaurant’s cost to purchase food is a business cost, not a cost incurred to comply with the regulations. In addition, contracting with a food recovery organization or service should not increase costs for restaurants unless the restaurant chooses to contract with a for-profit food recovery organization or service.</p> <p>Regarding the comment, “Secondly, it is not feasible for restaurants to self-haul edible food donations to a food recovery organization,” commercial edible food generators are not required to self-haul their food to a food recovery organization. Self-haul is an option for compliance. However, if self-hauling edible food is not feasible, then the food can be collected by a food recovery organization or service that the generator has a contract or written agreement with for food recovery.</p>
5093	Hansen, K. California Restaurant Association	<p>The SCLP regulation does not address the quality standards for edible food donations from a restaurant. Absent an objective standard to determine the quality of edible food donations, it will be easy for local jurisdiction officials to determine what their own standards are for spoiled food. A restaurant could be fined thousands of dollars for an innocent mistake that a local jurisdiction official</p>	<p>The definition of “edible food” was revised 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 provision provides an objective standard familiar to regulated entities.</p>

Comment Number	Received From	Question/Comment	Response(s)
		determined as intentionally spoiling edible food. We respectfully request Section 18991.3 (c) be removed from the final regulations.	
5094	Hansen, K. California Restaurant Association	The SCLP regulation is silent on the set of standards by which food recovery organizations should hold or maintain edible food donations. We are concerned that the regulation only focuses on the commercial food generators and does not speak to the standards that a food recovery organization must meet to receive and store edible food donations.	CalRecycle would first like to clarify that the definition of "edible food" in SB 1383's regulations specifies 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. However, specific food safety requirements are not included in SB 1383's regulations because food safety requirements are established by the California Health and Safety Code and enforced by local environmental health departments and the California Department of Public Health. If a commercial edible food generator, food recovery organization, or food recovery service does not safely handle recovered food, then environmental health could potentially take enforcement action depending on the circumstances.
5095	Hansen, K. California Restaurant Association	<p>Article 11 – Organic Waste Recycling Capacity Planning</p> <p>The SLCP Regulation is going to require new facilities and infrastructure to service the increased collection of organic waste and recovery of edible food. New compost and in-vessel digestion facilities will need to be funded, located and built. Since, SB 1383 did not dedicate funding to the construction of these new facilities the burden of funding the required infrastructure will fall on local jurisdictions. We are concerned that local jurisdictions will assess a user fee on organic waste generators to pay for the construction of these new facilities. Additionally, we are concerned that the planning, funding, approval and construction of these new facilities will take a significant period of time. It is only rational to include a waiver in the SLCP regulation for organic waste generators in jurisdictions that do not have the necessary infrastructure to recover organic waste by January 1, 2022.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
5096	Hansen, K. California Restaurant Association	Additionally, we are concerned about the ability of local jurisdictions to ensure enough capacity for edible food recovery by January 1, 2024. We recommend the inclusion of a waiver in the SLCP regulation for tier two commercial edible food generators in jurisdictions that do not have the necessary edible food recovery infrastructure and capacity to accept edible food donations by January 1, 2024.	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA).</p>

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
5097	Hansen, K. California Restaurant Association	Article 16 – Administrative Civil Penalties for Violations of Requirements of this Chapter The proposed fines are completely out of line with the revenues generated by restaurants. The vast majority of restaurants couldn't withstand a \$10,000 fine in one year much less per day. It is imperative to consider lowering the fine amounts to a more reasonable amount. We recommend in Table 10 for restaurants, Tier Two organic food generators, to be fined at Level 1 for the 1st violation, Level 2 for the 2nd violation and Level 3 for the 3rd and subsequent violation.	CalRecycle has revised sections 18997.2 and 18997.3 due to comments. The penalty tables have been removed. A jurisdiction shall impose penalties for violations consistent with the graduated penalty amounts authorized in Sections 53069.4, 25132 and 36900 of the Government Code which is outlined in Section 18997.2(a). The Department will impose penalties as described in 18997.3 according to a minor/moderate/major model as modified by various factors in that section to allow flexibility on a case-by-case basis as equity may require.
5098	Hansen, K. California Restaurant Association	Thank you for revising the penalty severity levels in Table 1 and Table 10, restaurants, Tier Two commercial edible food generators should not be fined at a higher level than grocery stores (Tier One commercial edible food generators). Grocery stores are going to produce a higher volume of organic waste and edible food donations, it is not appropriate to fine them at a lower rate than a restaurant which will produce a much smaller amount of organic waste and edible food donations.	Comment noted For clarity, Section 18997.2 outlines the penalty amounts imposed by the jurisdiction on regulated entities. These penalties are significantly lower than those listed in Section 18997.3. The penalty amounts listed in Section 18997.3 are imposed by the Department on jurisdictions for non-compliance with the Chapter and on various entities otherwise regulated by jurisdictions when the jurisdiction fails to enforce or lacks the authority to enforce this Chapter.
5099	Hansen, K. California Restaurant Association	Additionally, to achieve the stated goals, maximize compliance, and stay in-line with the spirit of SB 1383 we recommend the inclusion of an educational and outreach program to take place over the course of at least one year before jurisdictions can assess fines.	Comment noted. Section 18995.1 (a) (4) states requires a jurisdiction to provide education and outreach between January 1, 2022 through January 1, 2024. Beginning in 2024, jurisdictions are required to impose penalties on entities not in compliance with the Chapter.
3509	Harrington, P., City of Berkeley	General: As drafted, the regulations are overly prescriptive and onerous for cities. We urge CalRecycle to develop a performance-based pathway to compliance, which would be especially beneficial to those jurisdictions, such as Berkeley, that have led the state in organics recycling by developing their own programs.	Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.
3510	Harrington, P., City of Berkeley	Berkeley Container Lid Colors: Berkeley is committed to a dual-stream recycling program, which reduces residuals and keeps recyclables cleaner and more marketable. Berkeley is the only jurisdiction in Alameda County with a dual-stream recycling program. Our residential dual-stream recycling program utilizes a split cart. The cart itself is blue and the lid on the containers (bottles/cans/plastic containers) recycling compartment is blue; however, the lid on the fiber (cardboard/paper) compartment is brown. Commercial fiber stickers are also brown. Staff is concerned that the regulations as drafted will prohibit the City's dual-stream recycling program from utilizing the brown lid, which helps residents differentiate between the two material streams. If both compartment lids and stickers are blue, staff believe it could lead to cross contamination of our recycling program, which currently has a residual rate of less than 5%.	Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. The regulations do not preclude a jurisdiction from having split carts, but in the commenter's scenario this would mean the jurisdiction has a 3-container system that meets the requirements of Section 18984.1. Also, Subsections 18984.1(a)(6)(B) and (C) do not require only that light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. Further language was added clarifying that a jurisdiction could split the recycling portion of a two-container service to further segregate recyclables, however the gray container would still be required to be transported to a high diversion organic waste processing facility. See statement of purpose and necessity for Section 18984.2

Comment Number	Received From	Question/Comment	Response(s)
3511	Harrington, P., City of Berkeley	<p>Enforcement: The current SB1383 regulations codify much of StopWaste's internal enforcement protocol, which is continually being refined for efficiency and effectiveness. Codifying internal processes makes them much harder to change and adapt based on what is learned from implementation in the field. Jurisdictions are expected to enforce very specific requirements, such as whether the bins inside a business are properly color coded, labeled and located in all customer areas that, in StopWaste's experience, are unrealistic to enforce due to the difficulty of gaining access and the cost that would be needed to spend extensive time for each inspection. Inspecting at the hauler-serviced bins, often outside in a publicly accessible area, is where the rubber meets the road in showing the results of employee sorting behavior. A generator successfully sorting organics as demonstrated at the hauler-serviced bin should not be penalized for not complying with color and labeling requirements for bins inside the business.</p>	<p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
3512	Harrington, P., City of Berkeley	<p>Food Waste Prevention: Moving upstream to prevent food from going to waste avoids GHG emissions across the food cycle from production to consumption, in addition to avoiding landfill emissions when food goes to waste. Collective research shows that food waste prevention is the most impactful and least resource intensive strategy to reduce GHG emissions from food. For example, the EPA's Waste Reduction Model (WARM) demonstrates that source-reducing wasted food prevents 3.66 MTCO2E per ton of food. Bay Area Air Quality Management District's consumption-based emissions inventory shows an average two tons of CO2e avoided per ton of food waste prevented. We recommend that CalRecycle provide an exemption from food donation that recognizes and rewards the upstream efforts of generators implementing food waste prevention practices.</p>	<p>SB 1383's statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a food waste prevention target. As a result, CalRecycle will not require commercial edible food generators or jurisdictions to prevent or source reduce the amount of edible food they generate. CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for food recovery that are not desired by food recovery organizations or services. One example would be a generator having significant quantities of food that does not meet the nutrition standards of food recovery organizations or food recovery services. To address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste.</p> <p>To clarify, this is not a requirement for commercial edible food generators or jurisdictions to source reduce the amount of surplus edible food they generate. This is an education requirement intended to help generators learn how they can prevent the creation of food waste. Providing this education is critical to help generators that struggle to find outlets for their currently disposed edible food comply with SB 1383's commercial edible food generator requirements, as all tier one and tier two commercial edible food generators are still required to comply.</p> <p>Regarding the comment that CalRecycle provide an exemption from food donation that recognizes and rewards the upstream efforts of generators implementing food waste prevention practices. Adding a section for commercial edible food generator exemptions and de-minimis waivers to the regulatory text was not necessary. Adding a section for exemptions and de-minimis waivers was not necessary because the regulations are already structured so that many food facilities and food service establishments are exempt from compliance due to the smaller amounts of edible food they typically dispose. Only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or tier two commercial edible food generator is exempt from SB 1383's regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle recognizes however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this issue, CalRecycle revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3 extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. And (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.</p>
3513	Harrington, P., City of Berkeley	<p>Edible Food Recovery: We urge Cal Recycle to more directly address the issue of "donation dumping" by generators on food recovery organizations. Although the proposed regulations allow food recovery organizations to reject certain types of food, in practice organizations are unlikely to reject donations out of concern that that they will not receive future donations. In addition, if an organization is accepting large quantities of food in one delivery, it is not possible to review the contents and reject part of the load. Adding types of food accepted to the list of food recovery organizations, as well as tracking the types of food received by food recovery organizations would reduce the potential for donation dumping. In addition, providing a statewide platform for generators and food recovery organizations to report directly to the state would reduce the reporting burden on jurisdictions.</p>	<p>Regarding the comment about donation dumping, CalRecycle recognizes that donation dumping occurs. The regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or a food recovery service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383's regulations prohibiting a food recovery organization or service from terminating their relationship with that particular generator.</p> <p>In addition, CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, commercial edible food generators, and jurisdictions. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and services from donation dumping and unexpected donations. We again would like to reiterate that the model food recovery agreement is only a template and is intended to be customized based on the needs of food recovery groups and commercial edible food generators.</p> <p>Regarding the commenter's suggestion to add the types of food accepted to the list of food recovery organizations. CalRecycle has added a requirement to section 18985.2 in response to this comment and other comments that raised a similar concern. The new language requires the following to also be included with the list of food recovery organizations and food recovery services that the jurisdiction develops and maintains - "an indication of the types of food that the food recovery service or organization can accept for food recovery."</p> <p>The list of food recovery organizations and services is intended to serve as a tool to help generators find appropriate food recovery organizations and services to have a contract or written agreement with for food recovery. This addition was necessary to help make the list a more useful tool for commercial edible food generators. Listing the types of food the organization can accept will help generators determine what food recovery organizations or services they could potentially establish a contract or written agreement with. This addition to the regulatory text was also necessary to help protect food recovery organizations and food recovery services from receiving food that they are not equipped to handle.</p> <p>Regarding the comment about providing a platform where generators could report directly to CalRecycle, CalRecycle would like to clarify that commercial edible food generators do not have any reporting requirements. Commercial edible food generators have recordkeeping</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>requirements. Therefore, a statewide reporting platform for commercial edible food generators to report directly to that state is not necessary. In addition, a statewide reporting platform where food recovery services and organizations would report directly to the state rather than to jurisdictions would severely reduce each jurisdiction's ability to assess the effectiveness of their food recovery program and identify if improvements need to be made. Furthermore, the data that is reported directly to the jurisdiction is critical for helping the jurisdiction better understand the food recovery organizations and services making the greatest impact in their jurisdiction. This data can be used to help jurisdictions make decisions about food recovery organizations and services to promote and potentially direct funds to.</p>
3514	Harrington, P., City of Berkeley	<p>Procurement: While we support the need to build urban compost markets throughout the state, it would be more effective to base procurement targets on the potential for compost use in a jurisdiction to build healthy soil, not a statewide estimate of organics generated per capita or current transportation fuel use. Procuring the amount of compost proposed in the regulations would result in more compost than could be used, and put an undue financial burden on cities. A more effective and easily enforced market-building tool is to require jurisdictions to enforce the Water Efficient Landscape Ordinance, which requires compost use in landscape construction. Compliance can be enforced through existing required permit documentation and jurisdictions' reports to the CA Department of Water Resources. This would be similar to the approach in Article 8: CALGreen Building Standards, which directs jurisdictions to require compliance with relevant measures in CALGreen, and could easily approximate the procurement targets set in the current draft.</p> <p>Berkeley Compost Procurement: The City of Berkeley currently procures approximately 1,650 tons of compost annually. This compost is provided to residents for free at monthly compost giveaways and is donated to Berkeley's community gardens and school gardens. As currently drafted, the procurement requirements would require Berkeley to procure a total of 4,900 tons of compost annually. To meet this procurement amount, the additional compost material would cost the City an estimated \$203,125. This amount does not include transportation or handling costs. We support the League of California Cities' recommendation to address procurement and work to develop markets for these materials in a second regulatory proceeding.</p> <p>Berkeley Paper Product Procurement: Procurement of paper products in Berkeley is decentralized. Paper product purchases are managed by different individuals in each City Division/Department and these purchases may include other office supplies as part of a larger purchase order. Tracking all paper product purchases city-wide will require a substantial amount of staff time.</p>	<p>The purpose for the procurement target methodology is to create a transparent method for local governments to create markets for products generated by organics recycling facilities that is proportional to the number of residents in a jurisdiction. California has over 400 diverse jurisdictions and it would be overly burdensome to account for potential for compost use to build healthy soil, and to develop a procurement target and enforcement policy for each one. The current approach already accounts for jurisdiction-specific need by providing flexibility to procure products that fit local needs.</p> <p>CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p> <p>However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p> <p>Regarding decentralized purchasing, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them by early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
3515	Harrington, P., City of Berkeley	<p>Infrastructure Capacity Planning: This information should be gathered at the state level by interviewing composting facilities throughout the state. Counties do not have access to the information required by SB 1383 (or AB 876). It is impossible for a</p>	<p>The purpose of this section is to require counties, in coordination with cities 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</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>county to know of all the other counties that are sending material to the same composting facility. Moreover, counties do not have contracts directly with facilities; more commonly this is done through haulers that have contracts with cities. Those agreements rarely specify a particular composting facility.</p>	<p>cooperating on their overall organic waste capacity planning. The purpose of this section is 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 recovery organic waste. This will help increase organic waste recovery in California.</p>
3516	Harrington, P., City of Berkeley	<p>Reporting: The amount of staff time that would be required to document all the detailed aspects of the Implementation Record take away from jurisdiction resources that could be used to educate and enforce the generator and hauler requirements. We recommend that Cal Recycle reduce the number of reporting requirements and types of information required to what is necessary to determine compliance.</p> <p>Berkeley Comment on Reporting: The requirement to provide the Implementation Record within one business day is not reasonable. All disposal reporting for the City is currently handled by one staff person. If that staff person is out of the office or unavailable, it will not be possible to provide the requested Implementation Records within one day. Also, our jurisdiction coordinates outreach and enforcement efforts with StopWaste and subcontractors; we may not be able to receive the necessary data from these entities within one day.</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record to allow the Department to ensure jurisdictional compliance with the chapter.</p> <p>CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.</p>
3517	Harrington, P., City of Berkeley	<p>Berkeley Comment on Waivers: This comment is already included in the attached table; however, City of Berkeley staff would like to reiterate that managing waivers is time consuming, and the requirement in section 18984.II(B) for jurisdictions to annually verify businesses with de minimus and physical space waivers annually is an overly onerous requirement that focuses staff time on the smallest organics generators at the expense of focusing time on larger organics generators or focusing efforts on other, more impactful, waste reduction programs.</p>	<p>CalRecycle has revised the verification period to five years in response to this comment.</p>
3518	Harrington, P., City of Berkeley	<p>Funding: As stated in a letter submitted by the League of California Cities, lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Berkeley and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as quarterly collection route reviews, investigating contamination by inspecting containers along routes, as well as providing education and outreach. Berkeley Comment on Funding: The City of Berkeley operates curbside trash, recycling, and compost collection for all businesses in Berkeley. The City also collects all residential curbside trash and compost. We estimate that at least one additional FTE position will be needed to fulfill all of the SB1383 jurisdiction and hauler requirements,</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in</p>

Comment Number	Received From	Question/Comment	Response(s)
		including the quarterly route reviews, contamination identification and follow up, outreach and education, issuing and tracking waivers, edible food recovery requirements, paper procurement tracking, and other reporting requirements. We support the recommendations outlined in the attached table to reduce the staff time required for enforcement and reporting.	a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
3073	Hatfield, Z., Yolo Food Bank	As we highlighted in our last round of comments, the state and local jurisdictions will only be able to achieve this goal with an appropriate investment in the capacity and physical infrastructure of emergency food recovery organizations to increase the volume of food they receive, store and distribute. To that end, we are grateful to see the January 18 draft regulations include language in Article 10 about jurisdictions being able to fund these activities through avenues such as franchise fees and local assessments, as well as the ability for generators to self-haul and enter into contracts directly with food recovery organizations. We are in strong support of these funding mechanisms, which must be included in the final language, but urge that the capacity planning process in Article 11 be expanded to formally include stakeholders such as emergency food groups, to properly inform jurisdictions about gaps & needs.	This comment is in support of SB 1383's edible food recovery capacity planning process and requirements specified in Article 11 and language that was included in Article 10, Section 18991.1. Regarding the comment that the capacity planning process in Article 11 be expanded to formally include stakeholders such as emergency food groups, to properly inform jurisdictions about gaps and needs. Section 18992.2 states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. It is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations and services which will likely include emergency food groups.
3074	Hatfield, Z., Yolo Food Bank	Similarly, we thank CalRecycle for the language in Article 9 that reflects the need for food recovery organizations to be able to refuse food donations. Food recovery organizations operate on extremely thin budgets, and often experience staff turnover, funding shocks or other disruptions that may prevent them from participating in an arrangement even if they were otherwise favorable. The final state and local regulations recognize as fundamental to this work that food recovery organizations' participation is voluntary, given the existing strains on the budgets of under-resourced non-profits and largely volunteer labor force engaged in food recovery.	Comment noted. A change to the regulatory text is not necessary.
3075	Hatfield, Z., Yolo Food Bank	Meeting the goals in SB 1383 will create significant burdens on food recovery organizations, as the pressure to take more food will occur with tightening mandatory commercial organics recycling costs requirements from AB 1826 (Chesbro, 2014) that will raise costs for food banks. We urge inclusion, perhaps in Article 13, of an impact assessment on food recovery organizations to understand this issue and provide information to jurisdictions and other stakeholders about how to respond to any challenges raised. For example, food banks will be wondering: Is the additional food recovery estimated from this equal to, less than, or more than the additional cost on food banks to meet the mandated requirements?	The regulations specify in Section 18990.2 that nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible generator. Food recovery organizations and services are not mandated to recover food nor are they mandated to establish contracts or written agreements with commercial edible food generators pursuant to Section 18991.3(b). If the costs to recover additional food are too great, then food recovery organizations and services do not have to recover additional food. Adding a requirement to Article 13 requiring jurisdictions to perform an impact assessment on food recovery organizations and services would be overly burdensome for jurisdictions as they are already required to assess edible food recovery capacity and increase capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs.
3076	Hatfield, Z., Yolo Food Bank	We further urge CalRecycle to encourage jurisdictions to develop funding mechanisms that offset higher mandatory commercial organics recycling incurred that emerge in new partnerships due to recovery activities necessary to meet the 20% diversion goal. These include many possibilities, such as: Working with generators that food banks currently do not receive donations that	CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included to encourage jurisdictions to establish a

Comment Number	Received From	Question/Comment	Response(s)
		<p>would require de-packaging due to organizational nutrition policies, Working with donors whose offerings have a lower yield of edible food and an accordingly higher percentage of food loss during the recovery process. Funding mechanisms should recognize that 1) a large share of the costs associated with increasing the capacity for food rescue will be for labor and physical infrastructure costs associated with coordinating the additional food, 2). recovery activities pursuant to SB 1383's goal will nearly always augment work already being done with a mixture of existing and new capacity (staff, cold storage, vehicles, fuel and other fixed costs), and therefore funding should not be restricted to incremental pounds of food.</p>	<p>sustainable funding source to help cover their program implementation costs. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed. CalRecycle would also like to clarify that nothing in SB 1383's regulations requires a food recovery organization or service to establish a contract or written agreement with a commercial edible food generator. A food recovery organization or service may wish to consider any costs associated with recovering additional food when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator. CalRecycle would also like to note that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.</p>
3077	Hatfield, Z., Yolo Food Bank	<p>CalRecycle must define and delineate between 'edible' and 'recoverable' food, in particular to define the latter term and having the diversion mandate key off of recoverable foods - not edible. Making these changes in the definitions provides essential protection and clarity rather than simply listing each food recovery organization's priority foods and nutrition policies in the local 'food donation guides' as CalRecycle envisions in Article 4.</p> <p>This is a critical distinction - many times edible foods require packing, processing, or other additional work to enable their donation. Who will pay for that? CalRecycle should consider using the nationally established definition of food eligible for donation by the Bill Emerson Good Samaritan Food Donation Act & mirrored in AB 1219 (Eggman, 2017).</p> <p>The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. We wish to be on record that if this language is not adopted, not only will there be inconsistency with existing practice, but also some food would require additional labeling to allow recovery and donation, placing an additional burden on food banks to do so. This could significantly raise costs to achieve the diversion goal.</p>	<p>In an early draft of the proposed regulations edible food was defined as: "Edible food" means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, "edible food" is not solid waste if it is recovered and not discarded."</p> <p>Several commenters made the argument that this definition was too restrictive, because it described "recoverable food" not "edible food." Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters' concerns about the definition of "edible food" being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following:</p> <p>"Edible food" means food intended for human consumption.</p> <p>(A) For the purposes of this chapter, "edible food" is not solid waste if it is recovered and not discarded.</p> <p>(B) 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.</p> <p>Although the final definition of "edible food" is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities and eliminated the need to provide a separate definition for "recoverable food."</p>
3078	Hatfield, Z., Yolo Food Bank	<p>In addition, it is imperative that CalRecycle and jurisdictions exempt the 'nonprofit charitable organizations' (food banks and their non-profit partners) from fees and penalties related to their own waste incurred during compliance with SB 1383 as long as they are accepting donations with the intention to distribute the food for consumption. As the stream of donations increases, there may be more instances where food is not handled safely or as represented and if the non-profit charitable organizations are to help get this food out, it is important that they not be penalized for attempting to solve the overall problem.</p>	<p>Nothing in SB 1383's regulations requires a food recovery organization or a food recovery service to accept edible food. Section 18990.2 of the regulations states, "(d) Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator." If a food recovery organization or service cannot safely collect and distribute food because it is at maximum capacity, then it should not be collecting any more food. In addition, nothing in SB 1383's regulations requires food recovery organizations and food recovery services to enter into contracts or written agreements with commercial edible food generators. Food recovery organizations and food recovery services can choose not to participate.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>If a commercial edible food generator approaches a food recovery organization or a food recovery service requesting a contract or written agreement, then it is at the discretion of the food recovery organization or the food recovery service to determine if they want to enter into such contract or agreement. A food recovery service or organization may wish to consider any costs associated with recovering additional food when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator, thus subjecting them to a potential increase in costs. Please note, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing specifications in their contracts or written agreements with commercial edible food generators.</p>
3079	Hatfield, Z., Yolo Food Bank	<p>Below we ask for a significant overhaul of the role of food recovery organizations in the data reporting regime; reporting requirements must be re-centered on the generators that must comply with the diversion goal. In broader consultation, we have learned that as written the requirements are simply unworkable as they would violate donor confidentiality. Instead, as food recovery groups have this information, jurisdictions should make requests - solely for pounds out of simplicity and consistency with generator donation metrics - and the food recovery group(s) can make as needed should there be cause to verify a generator report.</p>	<p>SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p> <p>With regard to the comment about requiring commercial edible food generators to report, it is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.</p>
3080	Hatfield, Z., Yolo Food Bank	<p>Finally, we again caution CalRecycle on the potential for SB 1383 regulations to create unintended consequences that could threaten the ability of food recovery organizations-charity non-profits that feed people experiencing hunger - to access sufficient food and nutrition resources. In both definitions of 'Food Recovery' and 'Food Recovery Service' the draft regulations recognize that there could be activities conducted with payment and for-profit entities. We ask that CalRecycle emphasize the EPA's Food Recovery Hierarchy pyramid, which highlights "Feed Hungry People-Donate extra food to food banks, soup kitchens, and shelters" as the primary strategy after "Source Reduction." Food recovery organizations already occupy niche spaces and rely on the generosity of donors to access a sufficient supply of food. Recovery groups already compete with several secondary markets, from processors to pig farmers, and there are significant concerns with further pressures from revenue-based recovery organizations as the state achieves the goal to reduce the supply of these foods. Therefore we encourage CalRecycle to continue to find ways to minimize the regulatory burden and maximize generator agreement opportunities.</p>	<p>Several commenters explained that food recovery organizations occupy niche spaces and often rely on the generosity of food donors to access a sufficient supply of food. In addition, some food recovery groups compete with several secondary markets, from processors to pig farmers, and there are significant concerns with further pressures from revenue-based recovery organizations as the state achieves the goal to reduce the supply of these foods.</p> <p>CalRecycle would like to clarify that nothing in SB 1383's statute specifies that recovered edible food should first be intended for food banks, soup kitchens, and shelters. The statutory goal is that no less than 20% of currently disposed edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.</p>

Comment Number	Received From	Question/Comment	Response(s)
3081	Hatfield, Z., Yolo Food Bank	<p>Article 1 (a) Definitions {18), the definition of edible food: We reiterate our request to strike "unserved and unsold" to prevent gaming of the system - not serving food so that it can be dumped instead of donated. We add that the Conference For Food Protection Food Donation guidelines recommend that only unserved food be recovered for donation, even though it is allowable under federal law. Prepared foods in particular that have been served or sold, which customers have access to are not usually donated and would require strict food safety controls. The "back of house" trays that have not been touched are the standard for prepared donations. There are many food safety concerns if donations came from a hot bar, salad bar, or customer return. Nevertheless, we continue to ask the Department & jurisdictions. to be mindful that food could potentially be labeled 'served' in order to avoid compliance with SB 1383.</p>	<p>In an early draft of the proposed regulations edible food was defined as: "Edible food" means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, "edible food" is not solid waste if it is recovered and not discarded." Several commenters made the argument that this definition was too restrictive, because it described "recoverable food" not "edible food." Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters' concerns about the definition of "edible food" being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following: "Edible food" means food intended for human consumption. (A) For the purposes of this chapter, "edible food" is not solid waste if it is recovered and not discarded. (B) 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. Although the final definition of "edible food" is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities.</p>
3082	Hatfield, Z., Yolo Food Bank	<p>Article 1 {a) Definitions, a new definition of recoverable food should be inserted that: We again ask CalRecycle to restore the language used in the June "Concept" document that reflected our prior input that food recovery organizations like food banks are able to follow internal, established "standards and requirements for acceptance related to nutrition or quality when recovered by those organizations. Nothing in this definition shall preclude such organizations from developing more stringent standards "</p>	<p>CalRecycle would first like to clarify that SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute does not state that 20% of healthy or nutritious food be recovered. As a result, SB 1383's regulations do not include requirements that only certain types of food be recovered. CalRecycle does however, recognize that a core value of many food recovery organizations and food recovery services is to reduce food insecurity in their communities by rescuing and distributing healthy and nutritious food to help feed people in need. CalRecycle also recognizes that many food recovery organizations and food recovery services have nutrition standards for the food they are willing to accept. To address this, Section 18990.2 Edible Food Recovery Standards and Policies subsection (d) specifies that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from refusing to accept edible food from a commercial edible food generator. Therefore, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from following their own internal standards and requirements for acceptance related to nutrition or quality of the food when it is recovered.</p>
3083	Hatfield, Z., Yolo Food Bank	<p>Article 1 (a) Definitions (24), the definition of food recovery: We are in strong support of this language. We suggest to add that the definition conform to the definition in (25) of a food recovery organization. " ... collect and distribute for human consumption which</p>	<p>Nothing in SB 1383's statute specifies that recovered edible food should first be intended for no-cost charitable distribution. The statutory goal is that no less than 20% of currently disposed edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery</p>

Comment Number	Received From	Question/Comment	Response(s)
		otherwise be disposed, where recovered food is first intended for no-cost charitable distribution to communities in need."	entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.
3084	Hatfield, Z., Yolo Food Bank	<p>Article 1 (a) Definitions (25), the definition of food recovery organization, and (26), the definition of food recovery service:</p> <p>As we highlighted in our suggestions on the previous page, we remind CalRecycle of the possible unintended consequences of not explicitly stating that recovered food should be distributed for free to the public for consumption, and request this revision.</p> <p>We offer the additional context that if food generators want to take the federal tax deduction for donated food, it must be provided for free to the ill, needy, or children (See IRS code).</p>	Nothing in SB 1383's statute specifies that recovered edible food must first be distributed for free, or that recovered edible food shall first be intended for no-cost charitable distribution to communities in need. SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. Adding the commenter's suggested language to the definition of food recovery would not serve a regulatory function in helping California achieve its 20% edible food recovery goal. Rather, adding the commenter's suggested language could create barriers toward achieving the 20% edible food recovery goal. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.
3085	Hatfield, Z., Yolo Food Bank	Article 1 Definition (76): 'Under no circumstances shall a non-profit charitable organization be considered a 'wholesale food market'.	Several commenters were concerned that a non-profit food recovery organization could potentially be considered a wholesale food vendor and therefore be subject to SB 1383's commercial edible food generator requirements. Language was added to the definition of "commercial edible food generator" to specify that for the purposes of this chapter, food recovery organizations and food recovery services are not commercial edible food generators. Therefore, a non-profit charitable food recovery organization cannot also be considered a wholesale food vendor and is not subject to the commercial edible food generator requirements of SB 1383.
3086	Hatfield, Z., Yolo Food Bank	Article 4 (a)(l)(E): Please strike 'Hours of operation.' These should not be required on a website since under no circumstances should food be dropped at a food recovery organization without a prearranged agreement or MOU.	CalRecycle removed "hours of operation" from Section 18985.2 in response to this comment and several other comments raising the same concern. The commenter is concerned that including "hours of operation" could lead to commercial edible food generators dropping off food at a food recovery organization without having permission to do so. This change was necessary to ensure that this activity does not occur, and to help protect food recovery organizations from receiving food that they were not expecting to receive.
3087	Hatfield, Z., Yolo Food Bank	Article 4 (b)(1UD): Add this line 'Information that makes it clear they must have an agreement or MOU with a food recovery organization prior to any deliveries or drop-offs.'	<p>For context, the commenter is concerned that commercial edible food generators could self-haul edible food to a food recovery organization that they do not have a contract or written agreement with for food recovery. Donation dumping, and unexpected deliveries and drop offs of food donations are serious issues that can create significant hardships for food recovery organizations and food recovery services.</p> <p>CalRecycle included information in the FSOR to clarify that commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery where the contract specifies that the generator is permitted to self-haul edible food during pre-established delivery or drop off times. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off times specified in the contract or written agreement.</p> <p>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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>edible food generator could potentially be at risk of their 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 exact self-haul provisions to include in their contracts or written agreements.</p> <p>CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model food recovery agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and food recovery services from donation dumping and unexpected donations. The model food recovery agreement is a template that is intended to be customized based on the needs of food recovery organizations, food recovery services, and commercial edible food generators.</p>
3088	Hatfield, Z., Yolo Food Bank	<p>(a) A jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a generator or food recovery organization to recover edible food that could be recovered for human consumption.</p> <ul style="list-style-type: none"> o With the recent passage of AB 2178 (Limon. 2018), local non-profit charities may be required to register and pay fees to their local Environmental Health Departments in order to continue operating. With that in mind. CalRecycle and jurisdiction should coordinate with EH D's about the new food waste diversion goals that local food recovery organizations will be striving to meet. Perhaps this could be included in Article 13; we are open but ask for a response on how to ensure coordination and prevent duplicate regulation. 	<p>It was unclear what the commenter's concern was regarding duplication of recordkeeping requirements. The commenter did not provide additional information to identify if any of the recordkeeping requirements in SB 1383 are the same as the recordkeeping requirements of AB 2178. "Duplication of recordkeeping efforts" is very vague and additional context needed to be provided before any changes to the regulations could be considered.</p>
3089	Hatfield, Z., Yolo Food Bank	<p>(d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator. In fact, all generators must have agreements in place with food recovery organizations before deliveries or drop-offs and even in that context, any specific delivery can be refused because of quality, condition, lack of space, quality, type, condition, or any other reason.</p> <ul style="list-style-type: none"> o We appreciate CalRecycle's addition of this language, and again insist that it remain included and broadly interpreted by jurisdictions to give recovery organizations the flexibility they need given the diversity of situations that arise. 	<p>A change to the regulatory text was not necessary because Section 18990.2. (d), already specifies that nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator. It is not necessary to add language about the reasons why a food recovery organization or service can refuse edible food. The language in section 18990.2. (d) is sufficient to give food recovery organizations and services the authority they seek to refuse edible food.</p> <p>The FSOR also clarifies that commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery where the contract specifies that the generator is permitted to self-haul edible food during pre-established delivery or drop off times. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off times specified in the contract or written agreement.</p> <p>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 their contract being terminated by the food recovery organization. It is at the discretion of food recovery organizations, food recovery</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>services, and commercial edible food generators to determine the exact self-haul provisions to include in their contracts or written agreements.</p> <p>CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and food recovery services from donation dumping and unexpected donations. The model agreement is a template that is intended to be customized based on the needs of food recovery organizations, food recovery services, and commercial edible food generators.</p>
3090	Hatfield, Z., Yolo Food Bank	<p>(b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms. Under no circumstances should jurisdictions charge fees or assessments to food banks or other non-profit food recovery organizations.</p> <p>o This language is essential in recognizing the financial and human resource burden that food recovery organizations will face in working to meet the 20% diversion goal, and we are in strong support.</p>	<p>CalRecycle will not identify a specific entity that jurisdictions cannot charge fees to, as this raises an authority issue.</p>
3091	Hatfield, Z., Yolo Food Bank	<p>Regarding (2), With the passage of AB 2178 (Limon. 2018), local Environmental Health Departments will be required to keep records of what organizations food banks partner with, and documentation directly from non-food bank affiliated non-profit organizations that are serving ready-to-eat food. In an effort to minimize the duplication of record-keeping efforts, we request that local jurisdictions communicate with EH D's to obtain records of the relevant information to avoid duplicate efforts with food banks.</p> <p>Article 10. Section 18991.2{2}: A list of edible food recovery organizations in the jurisdiction and their edible food recovery capacity</p> <p>Add: 'and how to contact them to put in place a contract or agreement for food recovery'</p>	<p>Regarding the comment about AB 2178, it was unclear what the commenter's concern was regarding duplication of recordkeeping requirements. The commenter did not provide additional information to identify if any of the recordkeeping requirements in SB 1383 are the same as the recordkeeping requirements of AB 2178. "Duplication of recordkeeping efforts" is very vague and additional context needed to be provided before any changes to the regulations could be considered.</p> <p>Regarding the comment about the list of food recovery organizations, Section 18985.2 (a)(1) requires jurisdictions to develop a list of food recovery organizations and food recovery services operating within the jurisdiction and maintain the list on the jurisdiction's website. The list must be updated annually. The list must include, at a minimum, the following information about each food recovery organization and each food recovery service that it includes:</p> <ul style="list-style-type: none"> (A) Name and physical address. (B) Contact information. (C) Collection service area. (D) An indication of types of food the food recovery service or organization can accept for food recovery. <p>The regulations already include the requirement that the list include the contact information for each food recovery organization and service that is included on the list. Adding the commenter's proposed requirement would be redundant, because it is already required that the contact information is listed for each food recovery organization and food recovery service.</p> <p>However, if a jurisdiction is inclined to include 'information on how to contact the food recovery organization to establish contract or written agreement for food recovery' with their list, then they may do so. As stated in Article 9, Section 18990.1 (a), nothing in this chapter is intended to limit the authority of a jurisdiction to adopt standards that are more stringent than the requirements of this chapter, except as provided in Subdivision (b) of Section 18990.1.</p>

Comment Number	Received From	Question/Comment	Response(s)
3092	Hatfield, Z., Yolo Food Bank	<p>{b) (1) Contracting with food recovery services or organizations that will collect their edible food for food recovery, and {2) Self-hauling edible food to a food recovery organization that will accept the edible food for food recovery and with whom the generator has an agreement or MOU. (b)(l) & (2) are critical, and we strongly support their inclusion with the modification of needing an agreement. It is our interpretation that this is permissive of generators and recovery organizations agreeing to contractual terms that would enable recovery groups to charge for their recovery costs - though that would have to be negotiated between the parties. If this is not correct, we urge in the strongest possible terms that language be included that clarify this.</p>	<p>The commenter is concerned that commercial edible food generators could self-haul edible food to a food recovery organization that they do not have a contract or written agreement with for food recovery. Donation dumping, and unexpected food donations are serious issues that can create significant hardships for food recovery organizations and food recovery services. Revisions were made to the regulatory text to address this concern.</p> <p>CalRecycle first revised the regulatory text following the 45-day formal comment period in response to this comment. Specifically, language was added to Section 18991.3 that stated, “food that is self-hauled pursuant to this section shall be done with the consent of the food recovery organization.” However, in the subsequent October 2019 draft of regulatory text, this language was removed because it was no longer necessary due to other revisions that were made. Specifically, new revisions were made to Section 18991.3 Commercial Edible Food Generators. The revision added the requirement that commercial edible food generators must comply with the requirements of Section 18991.3 through a contract or written agreement with any or all of the following: (1) Food recovery organizations or services that will collect their edible food for food recovery. (2) Food recovery organizations that will accept the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery. Therefore, commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off 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 their contract being terminated by the food recovery organization. Also, nothing in SB 1383’s regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.</p> <p>CalRecycle would also like to note that the Department developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, commercial edible food generators, and jurisdictions. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and services from donation dumping and unexpected donations. We again would like to reiterate that this model agreement is only a template and is intended to be customized based on the needs of food recovery groups and commercial edible food generators.</p>
3093	Hatfield, Z., Yolo Food Bank	<p>(a) A commercial edible food generator subject to the requirements in this article shall keep a record that includes the following: o {3) An edible food generator that complies with the requirements of this article through contracting with a food recovery service or organization as allowed in Section 10.3 shall keep a record of the following for each food recovery organization or service that the edible food generator contracts with:</p>	<p>A change to the regulatory text was not necessary because it is anticipated that the majority of commercial edible food generators will not be infrequent donors. They will have edible food available for food recovery on a regular basis. Therefore, some kind of frequency for collection or self-haul must be established and documented. CalRecycle would like to clarify that nothing prohibits a food recovery organization and commercial edible food generator from establishing more than one frequency to account for changes in the amount of food available. For example, a</p>

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> • (A) The name, address and contact information of the service or organization. • (B) The types of food that will be collected by or transported to the service or organization. • (C) The established frequency that food will be collected or transported, with the exception of 'on call' or 'one-time' donors. • We request to modify this line. Many donors are on regular schedules, and this regulation will often be consistent with and reinforce those practices. Yet, for infrequent donors, donations can vary greatly based on factors such as inventory, season, weather conditions and consumer demand. Likewise, food recovery organizations are sometimes asked to be "on call," meaning they only pick up when asked. Therefore it can be difficult in some cases to establish a regular frequency, and it is not practical or helpful to track this metric. • (D) The quantity of food collected or transported to a service or organization for food recovery. <ul style="list-style-type: none"> • 1. Quantity shall be measured in pounds recovered per month. • 2. An Edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered. <p>We request to strike this line, in order to maintain a single metric - pounds - to avoid the confusion of multiple measures and creating the need to translate/reconcile across different metrics. IDENTICAL 3121</p>	<p>local education agency could have one established frequency for collections during the school years, and a different established frequency during the summer months when there is less food to recover. Maintaining a record of the established a frequency that edible food is collected or self-hauled is also important, because this information will help jurisdictions determine if a commercial edible food generator is recovering the maximum amount of edible food that would otherwise be disposed.</p> <p>With regard to the comment about using pounds as the only metric, CalRecycle agrees with this comment and removed the following language from the regulatory text: "2. An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered." By removing this language, all commercial edible food generators are now required to track pounds of food recovered. CalRecycle agrees with the commenter that this revision will eliminate confusion of multiple metrics, and also make commercial edible food generator recordkeeping more consistent as they will all be required to track pounds.</p>
3094	Hatfield, Z., Yolo Food Bank	<p>a) A food recovery organization or service that collects or receives 12 6 tons or more of edible food from edible food generators per year shall maintain a record that includes all of the following. Jurisdictions may request to review & audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported.</p> <p>In further consultation with member food banks, 6 tons is a low threshold to conform to the small capacity groups the Department seeks to prevent over-regulation. In addition, there are significant restrictions on donation data that would make compliance with the regulations, as written, impossible for food banks and member agencies.</p>	<p>The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold from the regulatory text. The final regulations 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.</p> <p>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 the 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% edible food recovery goal. 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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Regarding the comment that "jurisdictions may request to review & audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported." There are no requirements in the regulations that mandate the reporting of such information. If a public agency does decide to retain copies of commercial edible food generator records or food recovery organization and food recovery service records for enforcement purposes or audit purposes, they would be subject to the Public Records Act as well as any applicable provisions exempting the disclosure of proprietary or trade-secret information.</p> <p>Regarding the comment about restrictions on donation data, CalRecycle would like to clarify that SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p>
3095	Hatfield, Z., Yolo Food Bank	<p>(4) The total number of meals served per month if applicable.</p> <p>As in 18991.4, we request the simplicity and consistency of pounds. The metric of meals is based on a conversion from pounds, and represents an estimated average. We recommend tracking pounds only, as it will be more consistent and simpler to track across many organizations. It would be burdensome on existing staff to have to report these numbers on a regular basis, and would introduce confusion in matching donated vs. transported vs. recovered meals. Finally, meals can be calculated from pounds and is simply unnecessary to report. IDENTICAL 3123</p>	<p>CalRecycle agrees with this comment and removed the following language from the regulatory text: "An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered." By removing this language, all commercial edible food generators will be required to track pounds of food recovered. This revision will eliminate confusion of multiple metrics, and also make commercial edible food generator recordkeeping more consistent as they will all be required to track pounds.</p>
3096	Hatfield, Z., Yolo Food Bank	<p>Section 18992.2 Edible food recovery Capacity</p> <p>In (a), we strongly support the capacity planning process as outlined but urge that counties coordinate not just with cities and regional agencies but also with "all relevant edible food recovery stakeholders, including all of but not limited to food recovery organizations, generators and haulers."</p> <p>Currently, such stakeholder involvement would occur only after the process outlined in (b)(2), suggesting a planning scenario that would exclude the organizations with the expertise necessary for an effective planning process as outlined in (a) & (b).</p>	<p>A change to the regulatory text was not necessary because it is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations and services to assess their capacity. Food recovery organizations and services have the expertise necessary for providing information about their current capacity and capacity needs.</p> <p>Section 18992.2 also states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. CalRecycle would like to clarify that nothing in SB 1383's regulations prohibits a county, jurisdiction, or regional agency from also consulting with other relevant stakeholders such as haulers and generators.</p>
3097	Hatfield, Z., Yolo Food Bank	<p>In (b), we strongly support and urge that this language remain in the final regulations. Capacity is essential to achieving the state's goal, and jurisdictions must include implementation schedules that prioritize how to provide revenues that can support the real costs necessary to divert additional food in a food safe manner - the trucking, cold storage, fuel, staffing and administrative costs that food banks</p>	<p>Some commenters noted that there was a minor grammar error in Section 18992.2 Edible Food Recovery Capacity (b). A minor grammar edit was made to the regulatory text in response to this comment. This edit was necessary to ensure that the requirement is interpreted accurately. The minor grammar edit that was made can be found below.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>and other emergency food organizations struggle to provide already. If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction within that county that lacks capacity shall: A small but important typographical change</p>	<p>(b) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction within that county that lacks capacity shall:</p>
3098	Hatfield, Z., Yolo Food Bank	<p>Article 13 Section 18994.2. Jurisdiction Annual Reporting (h) A jurisdiction shall report the following regarding its implementation of the edible food recovery requirements of Article 10.</p> <ul style="list-style-type: none"> o (1) The number of commercial edible food generators located within the jurisdiction. o (2) The number of food recovery services and organizations located and operating within the jurisdiction that collect or receive more than 12 e tons of food per year. <ul style="list-style-type: none"> • (A) A Jurisdiction shall require food recovery organizations and services that are located within the jurisdiction and collect or receive 12 i-tons or more of edible food per year to report the amount of edible food recovered by the service or organization in the previous calendar year to the jurisdiction. • As with Article 10 Section 18991 5, we recommend doubling the 6 ton threshold. • We also reiterate our position in Article 10 18991.5: 18994.2 must be struck as written, and replaced with language that "jurisdictions may request to review & audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported .. " • Food recovery organizations already track and could make records available upon request by the jurisdiction or State (in order for the jurisdiction or State to reconcile with food generator reporting as part of an audit or compliance review). Moreover, for many food recovery groups this information is tracked but proprietary under existing agreements with generators, which this requirement could disrupt and have the unintended consequence to prevent donations. • We urge that the reporting requirement occur solely with the food generator, not with the food recovery organization, for consistency and ease of regulatory oversight If reporting flows from the food recovery organization up to the local jurisdiction, then up to the State, reconciliation with the food generators' output will be very difficult. • Food generator reporting would be provided to the State, local jurisdictions and food recovery organizations. 	<p>The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold from the regulatory text. The final regulations 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.</p> <p>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 the 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% edible food recovery goal. 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.</p> <p>Regarding the comment that "jurisdictions may request to review & audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported." There are no requirements in the regulations that mandate the reporting of such information. If a public agency does decide to retain copies of commercial edible food generator records or food recovery organization and food recovery service records for enforcement purposes or audit purposes, they would be subject to the Public Records Act as well as any applicable provisions exempting the disclosure of proprietary or trade-secret information.</p> <p>CalRecycle would also like to clarify that SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Regarding the comment requesting that the reporting requirement occur solely with the food generator and not with food recovery organizations and services. It is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.
3099	Hatfield, Z., Yolo Food Bank	Article 14, Section 18995.1 Jurisdiction Inspection and Enforcement Requirements (2): Unclear what food recovery organizations would be complying with in this section. Please provide a written answer and we will offer further comment.	To clarify, any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators pursuant to Section 18991.3 (b) is required to maintain records and report information to the jurisdiction. Therefore, any food recovery organization or service that has a contract or written agreement pursuant to Section 18991.3 (b) is also subject to inspection by the jurisdiction to verify that they are in compliance with the SB 1383 recordkeeping and reporting requirements that they are subject to.
3100	Hatfield, Z., Yolo Food Bank	Article 16. Section 18997, Table 1 (last row): Non-profit food recovery organizations should not be penalized if they are keeping records in good faith.	The only recordkeeping requirements for food recovery services and organizations are established in Section 18991.5. This section establishes minimum recordkeeping requirements for food recovery services and organizations that elect to establish a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b). A food recovery service or organization that does not have a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b) is not subject to the recordkeeping requirements. A food recovery service or organization may wish to consider any costs associated with recordkeeping when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator, thus subjecting them to the recordkeeping requirements of the regulations. Furthermore, the timeline for issuing penalties provides ample time for a food recovery organization or service to achieve compliance with the recordkeeping requirements. An entity may have up to seven months to come into compliance with a violation such as recordkeeping. CalRecycle believes this provides sufficient time for an entity acting in good faith to come into compliance with the requirements.
4439	Heaton, S. Rural County Representatives of California	Waivers and exemptions As stated earlier, RCRC is most appreciative of the proposed waivers and exemptions provided for rural jurisdictions, low-population areas, and emergency circumstances. Section 30.12 (c), Rural Exemptions, specifies that Rural Jurisdictions meeting the definition in Section 42649.8 of the Public Resources Code are exempt from the organic waste collection requirements until 2025. While this is most helpful to our jurisdictions, we request reconsideration that these counties be exempted from the entire Chapter. It is economically infeasible for these counties to be mandated to participate in an organics program for the small percentage of benefits received. It also seems difficult to justify the state spending any of their valuable resources ensuring compliance within one-third (19) of the state's counties	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount

Comment Number	Received From	Question/Comment	Response(s)
		<p>for such a small fraction (4%) of the organic waste stream. At a minimum, the provisions should be reviewed closely to eliminate those that are economically unjustified or do not provide a direct impact (i.e. planning capacity, implementation for edible food recovery, and processing infrastructure).</p>	<p>of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4440	Heaton, S. Rural County Representatives of California	<p>RCRC and Placer County staff has had discussions with CalRecycle staff regarding an additional specific waiver for small food waste generators in bear territory in the Tahoe Basin, where food waste collection is a public safety issue. Food waste collection for the larger businesses (AB 1826 phase I and II) can be collected in secure, locking bins. However, for the smaller businesses (AB 1826 phase III) and residences food waste collection is problematic, as described in more detail in Attachment B, Information to Support Bear Waiver Request.</p>	<p>CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826.</p> <p>As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes.</p> <p>Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. This comment argued that the limited space of locked bear boxes, which this commenter's jurisdiction uses to secure garbage bins, creates a capacity issue. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, nothing prevents the jurisdiction from providing smaller containers that could fit inside bear boxes.</p>
4441	Heaton, S. Rural County Representatives of California	<p>RCRC also still believes it is appropriate to allow a local jurisdiction to request a waiver from CalRecycle for a proposed area based upon the local circumstances and conditions. Local jurisdictions need to have the ability to appeal to CalRecycle when lack of easily accessible organics facilities, the greenhouse gas impact tradeoffs, or other unique situations occur that are beyond the reasonable ability of the jurisdiction.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>

Comment Number	Received From	Question/Comment	Response(s)
4442	Heaton, S. Rural County Representatives of California	<p>Capacity Planning The Proposed SLCP Regulations capacity planning for edible food recovery and processing facility infrastructure includes a requirement that jurisdictions that lack sufficient capacity shall submit an implementation schedule to CalRecycle that demonstrates how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed of by its generators. This is beyond the ability of local jurisdictions to achieve.</p> <p>It is common knowledge that California does not have sufficient infrastructure capacity today to handle the amount of organics to be diverted from landfills to meet the goals of AB 1826 and SB 1383. In addition to being costly, the facilities are difficult to site and usually take five to ten years to get through the permitting process. Placing the responsibility of providing sufficient capacity on local jurisdictions is not realistic. This effort will necessitate all stakeholders, including the state, local jurisdictions, private industry, and the residents of the state to participate in this endeavor.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4443	Heaton, S. Rural County Representatives of California	<p>Procurement Program Market development is a crucial component of the success of meeting our organics diversion goals, of which state and local governments procurement requirements is an important piece. However, RCRC does not think that the SLCP Regulations should be the vehicle to address this issue. We believe local procurement mandates are not authorized by SB 1383. We suggest that procurement be removed from the proposed regulations and that it be an all-encompassing (state and local government) effort. We believe this procurement mandate was not authorized by SB 1383 and is inconsistent with other statutes, constitutes an unfunded mandate, and causes potentially significant environmental impacts requiring California Environmental Quality Act (CEQA) review.</p>	<p>SB 1383 provided a broad grant of rulemaking authority to place requirements on jurisdictions to achieve the statutory requirements. CalRecycle determined that procurement requirements are necessary to achieve the organic waste diversion goals in statute by providing end uses for processed organic waste. CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383. According to the October 1,</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>2018 decision in <i>Paradise Irrigation Dist. v. Commission on State Mandates</i>, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p> <p>CalRecycle prepared an Environmental Impact Report (EIR) under CEQA to analyze potentially significant effects on the environment that may be the reasonably foreseeable result of this rulemaking effort.</p>
4444	Heaton, S. Rural County Representatives of California	<p>Monitoring, Compliance, and Enforcement</p> <p>The requirement of the property and business owner responsibilities to provide organic waste collection services and annual notification about organic waste recovery requirement and proper sorting is duplicative for residential tenants and will be difficult for jurisdictions to monitor. The local jurisdiction is already required to do public education and outreach that should already cover the individual residence, whether rented or owner occupied.</p>	<p>CalRecycle revised Section 18984.10 in response to this comment to clarify that requirements on commercial business owners do not pertain to single family residences. Also note, in the current language, CalRecycle removed ‘property owners’ from this section.</p>
4445	Heaton, S. Rural County Representatives of California	<p>RCRC appreciates the inclusion of a mechanism to allow consideration of a jurisdiction’s efforts for compliance. The “Corrective Action Plans” (CAPs) allows extended timelines and milestones for achieving compliance, if the jurisdiction has demonstrated that it has made a “substantial effort” to comply and there are extenuating circumstances that have prevented it from complying. Substantial effort is then defined to mean that a jurisdiction has taken all practicable action to comply. However, it further clarifies that substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply with the Chapter, including but not limited to, a failure to provide staff resources or sufficient funding to assure compliance. We believe this to be too severe of a requirement for determining compliance. There are many factors for a decision-making body to consider when establishing programs that are reasonable and economically feasible.</p>	<p>A change to the regulatory text is not necessary. This exclusion of the circumstance where a decision-making body of a jurisdiction has not taken action as “substantial effort” was to prevent delayed enforcement action due to a jurisdiction failing to take adequate steps to comply with the Chapter. The success of the Short-lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. This strict timeframe does not allow for a multi-year and multi-step process for achieving compliance or a “good faith effort” as with AB 939. Enforcement by the Department allows a jurisdiction extended timeframes to come into compliance through extensions and the Correction Action Plan (CAP). Absolving the jurisdiction of their responsibility to comply with the regulations due to the failure of a decision-making body would render the state incapable of achieving the SB 1383 targets. The jurisdiction is ultimately responsible for their compliance with the Chapter and shall be subject to penalties for noncompliance and the decision-making body will need consider the possibility of penalties if it fails to take the necessary steps to comply. By adopting the SB 1383 regulations as early as</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>possible, impacted stakeholders will be provided the maximum amount of time to prepare and budget for implementation and compliance.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a CAP. This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
4446	Heaton, S. Rural County Representatives of California	<p>Penalties. The Proposed SLCP Regulations includes a very specific and extensive penalty table that RCRC believes is contrary to the express language of SB 1383 and inconsistent with the Government Code provisions regulating local penalties. Please refer to Attachment C for a more detailed discussion. We also believe the penalty section is premature and should be considered in a separate set of regulations. This regulation is complicated on all fronts and will be difficult to implement and administer. All stakeholders need to begin working through responsibilities and requirements to determine appropriate levels of fines for the various infractions. Jurisdictions have until 2022 to implement the programs so there is ample time to consider appropriate levels of penalties after implementation of these regulations.</p>	<p>A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.</p> <p>The penalty table for penalties imposed by the jurisdiction has been removed. A jurisdiction shall impose penalties for violations consistent with the graduated penalty amounts authorized in Sections 53069.4, 25132 and 36900 of the Government Code which is outlined in Section 18997.2(a).</p> <p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies</p>

Comment Number	Received From	Question/Comment	Response(s)
			may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.
4447	Heaton, S. Rural County Representatives of California	It is also very difficult to justify such a prescriptive set of penalties onto our residents, industry partners, and local jurisdictions when the State entities, federal agencies, and schools, who are large contributors to the organic waste stream, get put on a “list-of-shame” for non-compliance.	A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.
4448	Heaton, S. Rural County Representatives of California	Sampling and Loadchecking. The proposed requirements for sampling and loadchecking are excessive and costly especially along with implementation of new programs. Rather than daily sampling, we recommend sampling occur within a one-week period on a quarterly basis and reporting on a quarterly basis rather than monthly. The standards for loadchecking between different requirements have several inconsistencies that are not explained or justified. The frequency and timing of the required number of load checks could prolong the operating day at an operation or facility until the loadcheck is complete.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The methodology was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days per quarter instead of daily 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 get the needed data. Regarding loadchecking: CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site. Also, note that Section 17409.5.9 allows the EA, with concurrence from CalRecycle the flexibility to approve an alternative measurement as long as the method proposed by the operator is as accurate as the prescribed protocol.
4449	Heaton, S. Rural County Representatives of California	Section 18981.2 Implementation Requirement on Jurisdictions (b) CalRecycle should allow more flexibility and options for the allowed designations and not just contracts and agreements. Other mechanisms such as ordinances or permits could be used to provide some of the services required in the Chapter. This would allow a jurisdiction to pass on requirements to other providers, contractors, and others to meet requirements. For example, it is common for a jurisdiction to require the use	Comment noted. CalRecycle is declining to add ordinances to the manner of designation as it finds at this time that a negotiated agreement may be more effective at ensuring that all parties understand their obligations.

Comment Number	Received From	Question/Comment	Response(s)
		of recycled-content paper in written reports and that action should be included in a jurisdiction's procurement requirements.	
4450	Heaton, S. Rural County Representatives of California	Section 18981.2 Implementation Requirement on Jurisdictions (b)(3) other jurisdiction actions including ordinances or permits can be used	Comment noted. CalRecycle is declining to add ordinances to the manner of designation as it finds at this time that a negotiated agreement may be more effective at ensuring that all parties understand their obligations.
4451	Heaton, S. Rural County Representatives of California	Article 1 Definitions (30) "Grocery store" – It is understandable to not include any "areas that is separately owned," but this will create issues during enforcement especially since the same waste to recycling containers may be used. This situation should be addressed in the later sections.	To clarify, if a privately owned business within a grocery store meets any of the commercial edible food generator definitions and their associated thresholds, then the business would be required to comply with the commercial edible food generator requirements specified in Section 18991.3 of the regulations. If the privately owned business does not independently meet the commercial edible food generator definitions or thresholds, it is not required to comply with SB 1383's commercial edible food generator requirements. Regarding the comment "this will create issues during enforcement especially since the same waste to recycling containers may be used." The regulations do not include penalties for contamination, and they do not require jurisdictions to levy penalties for contamination of containers. However, nothing in the regulations prevents a jurisdiction from imposing processing fees or penalties in an effort to reduce contamination.
4452	Heaton, S. Rural County Representatives of California	Article 1 Definitions (33) "High diversion organics waste processing facility" – It is likely that some high diversion facilities may not meet the required standards, or their compliance will fluctuate, during operations. Jurisdictions should not be held accountable for arranging the required delivery of organics to the high diversion facility that might not meet the high diversion standards at the time of delivery. This situation should be addressed in the later sections.	The regulations provide that the diversion percentage is determined on a timing schedule that allows for incidental fluctuations that would not disqualify the facility.
4453	Heaton, S. Rural County Representatives of California	Article 1 Definitions (36) "Jurisdiction" – This definition should include Regional Agencies and multi-county regional agencies such as the Regional Waste Management Authority established in Yuba and Sutter Counties. These regional agencies act on behalf of multiple jurisdictions to ease the burden of requirements on individual jurisdictions.	Regional agencies are defined in Public Resources Code Section 40181. Per Public Resources Code Section 40100, that definition extends to regulations adopted under Division 30 of the Public Resources Code.
4454	Heaton, S. Rural County Representatives of California	Article 1 Definitions (42) "Non-local entity" – the listed entities are not subject to the control of a jurisdiction's regulations related to solid waste, but this section does not exclude a jurisdiction from being accountable for tonnages of organics generated by these entities. This definition should include language that the jurisdiction is not accountable for the lack of compliance from these entities.	Other sections in the regulations make clear that CalRecycle directly enforces non-compliance from such entities. Jurisdictions are not responsible for enforcing non-compliance by non-local entities.
4455	Heaton, S. Rural County Representatives of California	Article 1 Definitions (46) "Organic waste" – This definition is overly broad and inconsistent with other definitions used in requirements such as the Mandatory Organics Recycling requirements and the soon to adopted Recycling and Disposal Facility Reporting. Inconsistent definitions cause excessive burden on jurisdictions and create confusion for customers. There is even a different limit on organics proposed in Section 18992.1 (e). The various definitions are listed below: SB 1383 (46) "Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited	Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated

Comment Number	Received From	Question/Comment	Response(s)
		<p>to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.</p> <p>MORe AB 1826 Public Resources Code Section 42649.8 (c) "Organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.</p> <p>AB 901 Proposed Title 14 Section 18815.2 (a) (39) "Organics" means material originated from living organisms and their metabolic waste products. This includes, but is not limited to, food, "agricultural material" as defined in section 17852(a)(5) of this subdivision, "agricultural by-product material" as defined in section 17852(a)(4.5) of this subdivision, green material, landscape and pruning waste, nonhazardous lumber and dimensional wood, manure, compostable paper, digestate, biosolids, and biogenic sludges; and any product manufactured or refined from these materials, including compost, and wood chips.</p>	<p>by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
4456	Heaton, S. Rural County Representatives of California	<p>Article 1 Definitions (46) Organic Waste In addition, the term "material originated from living organisms and their metabolic waste products" is vague and could even include plastics which are derived from petroleum eons ago. This definition could also include non-organic material contaminated with a small quantity of organics.</p>	<p>Comment noted. The definition of organic waste clearly identifies materials that are types of organic waste. It is not feasible or necessary to state in the negative every conceivable material that is not an organic waste.</p>
4457	Heaton, S. Rural County Representatives of California	<p>Article 2 18983.1 Landfill Disposal and Recovery (b)(5) added revegetation and slope stabilization to erosion control or landscaping as accepted uses as a soil amendment at a landfill. This section should allow a process for allowing alternatives and a process for getting approval for certain organic wastes that are sent to a landfill and deemed to be a reduction of landfill disposal. New situations arise and there should be allowance.</p>	<p>CalRecycle concurs that maintaining flexibility for other recovery processes not specifically identified in Section 18983.1(b) that may still constitute a reduction of disposal of organic waste and can achieve equivalent greenhouse house gas reduction that meets or exceeds the baseline of 0.30 MTCO2e per short ton. Therefore, the proposed regulations include Section 18983.2, Determination of Technologies That Constitute a Reduction in Landfill Disposal as a pathway for including additional activities and technologies.</p>
4458	Heaton, S. Rural County Representatives of California	<p>Article 2 18983.1 (b)(5) (C) specifies the soil amendment material applied at landfills is never more than 12 inches. However, (B) (1) states it is restricted to organic wastes appropriate for the specific use and in accordance with engineering, industry guidelines or other standard practices specified in the RDSI. (B) (2) Restricts it to quantities of solid wastes no more than necessary to meet the minimum of (1). Don't these sections conflict?</p>	<p>Existing research demonstrates that organic waste suitable for use as a soil amendment reduces net emissions if the depth does not exceed 12 inches. If it exceeds 12 inches, it can lead to anaerobic conditions, which leads to the generation of greenhouse gases. Subsections (b)(5)(B)(1) and (2) should be read in concert with (b)(5)(B)(3) in such a way as to be restricted to a maximum depth of 12 inches.</p>
4459	Heaton, S. Rural County Representatives of California	<p>Article 3 18984.1 Three-container Waste Collection Services (b) A jurisdiction may transport the gray container to a facility that processes and recovers organic waste. The jurisdiction will not be considered out of compliance with subdivision (a) if it allows carpet and textiles in the gray container. Is this only if it takes it to a facility that recovers organic waste?</p>	<p>While carpets and textiles may be handled in a different manner, some jurisdictions may allow them to be placed in the gray container. Carpets and textiles are allowed in the gray container regardless of where the contents of the container are subsequently managed i.e. if these are the only organic wastes allowed in the gray container the container does not have to be transported to a high diversion organic waste processing facility.</p>
4460	Heaton, S. Rural County Representatives of California	<p>Article 3 18984.2 Two-container Waste Collection Services (a) Why is it a blue container instead of gray? Isn't it sending the wrong message to allow the collection of non-organic/recyclable materials in a blue "recycling" container? If a jurisdiction choses to upgrade to a three-container collection in the future, extensive public re-</p>	<p>Thank you for the comment. Section 18984.2 was revised to require either a green and gray container or a blue and gray container.</p>

Comment Number	Received From	Question/Comment	Response(s)
4461	Heaton, S. Rural County Representatives of California	<p>education will be required to not contaminate the blue cart rather than the positive message of adding additional service.</p> <p>Article 3 18984.3 Unsegregated Single-Container Collection Services (b) If a high diversion organic waste processing facility has an annual average mixed waste organic content recovery rate that is lower than the required for two consecutive quarters or three quarters within three years, the facility shall no longer qualify. The three quarters within three years seems disproportionate. We recommend three quarters within two years to be more appropriate.</p>	<p>Comment noted. The rolling quarterly efficiency was specifically designed to account for seasonality. At any given time, each season is accounted for in the recovery efficiency measurement. Further if a facility does not meet the recovery efficiency levels in one quarter, it has an entire additional quarter to improve its levels before it would not be considered a high diversion organic waste processing facility. Finally, if a facility falls below the levels, a jurisdiction that had been using the facility to comply with the correction service requirements of Article 3 would have an additional 90 to 180 days to come in to compliance (e.g. the facility improves its recovery efficiency), or if extenuating circumstances persist the jurisdiction could be placed on a corrective action plan, providing yet more time for the facility to improve its recovery efficiency.</p> <p>The purpose of that section is to ensure that a facility has an opportunity to improve its organic content recovery rate and maintain its status as. This ensures that a single quarter with lower than average recovery rates does not automatically disqualify the facility from its status as a high diversion organic waste processing facility. This further provides a jurisdiction sufficient time to become aware of failures and cure the failure prior to needing to establish a program that complies with Article 3 instead</p> <p>CalRecycle will inform jurisdictions implementing a service that is required to use a high diversion organic waste processing facility if the facility they select is no longer an eligible. Jurisdictions that contract with facilities are encouraged to maintain an awareness of the recovery efficiency of the facility that they select to receive their organic waste</p>
4462	Heaton, S. Rural County Representatives of California	<p>Article 3 The requirement that the contents of the single grey container must be transported to a high diversion organic waste processing facility would require all qualifying rural areas to develop high diversion facilities at their local solid waste facilities that do not current exist or transport the collected wastes significant distances. This requirement is expensive and not feasible for qualifying rural areas.</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>“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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.”</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>“With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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.</p> <p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additionally flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections 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)...”</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>“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.</p> <p>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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Therefore, in order to meet the recovery targets specified in statute and the state’s ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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.”</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be “protected” or provided a “safe-harbor.” The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p> <p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4463	Heaton, S. Rural County Representatives of California	17409.5.10 consolidation sites Article 3 In addition, (d) allows the contents of containers may be initially transported to a consolidation site and (e) allows for organic waste to be placed in bags and then placed in the grey container. However, the provisions of the 17409.5.10 (c) requires that “Consolidation sites shall keep source separated organic waste streams separate from other solid waste streams.” This could imply	A change to the regulatory text is not necessary. There is no restriction for the type of containers that are sent to consolidation sites only that it is there for storage and that no processing will be conducted at these sites. Sections 18984.1, 18984.2, and 18984.3 allow for containers with bagged organics to be sent to a consolidation site to be stored without processing. The bagged organic waste in the containers will remain in the containers until transported to a facility that will comply with the organic recovery efficiency requirements.

Comment Number	Received From	Question/Comment	Response(s)
		that the consolidation site will be required to remove the bags of organics at the consolidation site to ensure the separation from other solid wastes. If the bagged organics option is utilized by a jurisdiction, the consolidation site should be allowed to maintain the bagged organics in with other solid wastes.	
4464	Heaton, S. Rural County Representatives of California	Article 3 18984.8 Container Labeling Requirements. (a) A jurisdiction shall place and maintain a label on each “new” container or lid provided to generators, consistent with the applicable container collection requirements and limitations, specifying what materials are allowed to be in each container. What about old containers?	<p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers’ useful life or by 2036.</p> <p>A jurisdiction’s designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute’s signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p>

Comment Number	Received From	Question/Comment	Response(s)
			The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.
4465	Heaton, S. Rural County Representatives of California	Article 3 18984.9 Organic Waste Generator Requirements. Organic Waste Generators shall subscribe to the organic waste collection service provided by the jurisdiction or self-haul organic waste to a to a facility that processes source separated organic waste. Can a generator self-compost? Self-compost will result in a greater reduction in emission since no additional transportation is involved.	On-site management is allowed; however, it is not required. This recommendation would not achieve the necessary statewide organic waste disposal reductions. It is not realistic to expect that all organic waste can be composted at family homes, particularly in dense urban environments. A separate on-site composting waiver is not necessary. A jurisdiction already can waive some or all aspects of the organic waste collection requirements under the de minimis waiver.
4466	Heaton, S. Rural County Representatives of California	Article 3 18984.11 Waivers and Exemptions Granted by a Jurisdiction. The jurisdictions only have the ability to grant waivers. Should "exemptions" be deleted from the title?	CalRecycle has revised the title of Section 18984.11 to remove the word 'exemption' from the title as this section did not include any exemptions granted by the jurisdiction.
4467	Heaton, S. Rural County Representatives of California	Article 3 18984.12 Waivers and Exemptions Granted by the Department. (a) and (b) Low population waivers: A city or county may apply to the Department for a two-year waiver if (1) the city disposed of less than 5,000 tons of solid waste in 2014 and has a total population of less than 5,000 people or (2) a county for census tracts located in unincorporated portions of the county that have a population density of less than 50 persons per square mile. Can a jurisdiction reapply for subsequent 2-year waivers?	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state. Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.

Comment Number	Received From	Question/Comment	Response(s)
			<p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383’s organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4468	Heaton, S. Rural County Representatives of California	Article 3 Additionally, census tracts have physical boundaries, most commonly roads. Many times, in rural areas the concentration of the population at the edge of a town may exceed the 50 persons per square mile, but the tract can then encompass miles of territory with less than the 50 persons per square mile. RCRC would like to see a provision that a jurisdiction could apply to CalRecycle for a waiver of a portion of a census tract under these circumstances.	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.

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			<p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map.</p>

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			<p>CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4469	Heaton, S. Rural County Representatives of California	<p>Article 3 (c) Rural exemptions: Rural jurisdictions (located within a rural county) and rural counties (population of less than 70,000 persons) may apply to the Department for an exemption from the organics waste collection requirement until 2025 or until 5 years after the department makes a determination pursuant to Section 42649.82 (a)(2)(D), whichever is later. This section states that on or after January 1, 2020, if the department determines that statewide disposal of organic waste has not been reduced to 50% of the 2014 level, all exemptions authorized by this paragraph shall terminate unless the department determines that applying this chapter to rural jurisdictions will not result in significant additional reductions of disposal of organic waste, meaning that they can extend the exemption. CalRecycle has interpreted "whichever is later" to mean from the date the determination is made whether it is January 1, 2020 or a later date. RCRC's intent was to have the new SB 1383 requirements begin implementation 5 years after AB 1826 requirements are required, to allow the same phase-in opportunities the larger jurisdictions were afforded.</p>	<p>A change to the regulatory text is not necessary because the text already says either 2026 or 5 years after determination, whichever is later. Also note, in the current language the date was changed to December 31, 2026.</p>
4470	Heaton, S. Rural County Representatives of California	<p>Article 4 18985.1 Organic Waste Recovery Education and Outreach. (e) A jurisdiction may comply with the requirements of (a) (for the 3 and 2 container systems) through its haulers. Shouldn't (c) for unsegregated single containers be included?</p>	<p>CalRecycle revised Section 18985.1(d) to provide consistency in required education and outreach requirements for the three different container service options.</p>
4471	Heaton, S. Rural County Representatives of California	<p>Article 5 18986.2 Local Education Agencies Requirements. Was it deliberate to omit "prohibit employees from contamination and periodically inspect containers for contamination and inform employees if contaminated from the local agency requirements," as is required for non-local entities?</p>	<p>CalRecycle has revised Section 18986.2 to reflect that local education agencies shall prohibit their employees from placing organic waste in the incorrect container.</p>
4472	Heaton, S. Rural County Representatives of California	<p>Article 5 18986.3 Waivers for Non-Local entities and Local Education Agencies. The Department shall waive a non-local entity's or local education agency's obligation to comply with organic waste collection service requirements if it meets the de minimis or space waiver specifications of 18984.11 or it is located in a jurisdiction that has been granted a department waiver pursuant to 18984.12. Shouldn't this include the 18984.12 (c) rural exemption?</p>	<p>Waivers for non-local entities already references exemptions under Section 18984.12 that include rural jurisdictions waivers.</p>

Comment Number	Received From	Question/Comment	Response(s)
4473	Heaton, S. Rural County Representatives of California	Article 6 18987.1 Biosolids Generation a Publicly Owned Treatment Works (POTW) (b) Material received at a POTW that it is not allowed to accept shall be deemed to constitute landfill disposal. I do not understand what this means. Is it more appropriate to reference or be consistent with the language in Section 17896.6 9A0 (1)(A) "Any separated material at the POTW that is not suitable for anaerobic digestion and has no beneficial use shall be further managed as a solid waste?"	A change to the regulatory text is not necessary. The intent of this section is to clarify that waste received at a POTW that does not meet the requirements of Section 17896.6(a)(1)(C) would be considered waste sent for disposal. Therefore, facilities or jurisdictions sending such waste to a POTW would count as sent for disposal.
4474	Heaton, S. Rural County Representatives of California	Article 6 Why is it necessary to have the biosolids Article in these regulations? What is it actually regulated any differently?	A change to the regulatory text is not necessary. The purpose of Article 6 is to specify biosolids generation and handling requirements at a Publicly Owned Treatment Works (POTW). This required its own Article as these specific requirements would not fall directly under the existing Transfer/Processing, Composting, or In-Vessel sections of the Title 14, California Code of Regulations.
4475	Heaton, S. Rural County Representatives of California	Article 7 Section 18988.3. Self-haulers of Organics Waste (b)(5) The exemptions for residential organic waste generator that self-hauls in this section should be broadened to include sections (a), (b)(1), and (b)(2). Some rural residents self-haul their wastes to remote limited-volume transfer stations (e.g. a debris box or compacter). These remote operations are not equipped to have separate containers for organics. Adding additional containers would greatly increase the costs for these remote sites. In addition, subdivision (b)(2) requires hauling to a site that "processes or recovers source-separated organic wastes". Rural landfills and transfer stations may not be equipped to process or recover organics directly at that site and may plan to send mixed materials to another site. This section should allow for subsequent transfer.	A change is not necessary as Article 3 allows the contents of containers to be initially transported to a consolidation site. Additionally, 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 Section 42649.81 of the Public Resources Code is not required to comply with the requirements of this section.
4476	Heaton, S. Rural County Representatives of California	Article 9 Section 18990.1 Legal cases have limited a jurisdiction from restricting import of wastes to a private facility, but that limitation is not appropriate for publicly owned facilities as indicated in our attachment.	A change to the regulatory text is not necessary. This section will not conflict with market conditions. Potential market shifts will impact all facilities. This section is necessary because the statute is intended to increase organics recycling, not decrease organics recycling. This provision is simply designed to prohibit a jurisdiction from requiring a generator to send its material to a facility that will recycle less of it than one they are currently sending it to A change to the regulatory text is not necessary. CalRecycle disagrees. A limitation for publicly owned facilities is appropriate in order to regulate organic waste at public and private facilities in order to meet the diversion goals of the statute.
4477	Heaton, S. Rural County Representatives of California	Article 9 Section 18990.1 CEQA may impose limitations on standards that cannot be limited by these proposed regulations	The comment is vague. To the extent it is suggesting that CEQA overrides aspects of SB 1383 and these implementing regulations or limits the ability of local jurisdictions to comply with both CEQA and SB 1383 and these regulations, the commenter is incorrect. CEQA is clear that it does not provide any independent authority to mitigate or avoid significant effects on the environment and that a public agency must use discretionary powers outside of CEQA for such purposes (Public Resources Code Section 21004, CEQA Guidelines Section 15040). A local agency may not use discretionary powers outside of CEQA for purposes of avoiding or mitigating significant environmental effects to the extent those powers rely on laws or ordinances that would be preempted by SB 1383 or associated regulations.
4478	Heaton, S. Rural County	Article 9 Section 18990.1 (2) Since some sites charge additional fees on out-of-area wastes, this section should "limit" a jurisdiction's ability to charge fees especially	A change to the regulatory text is not necessary. Article 9 section 18990.1 (b)(2) does not prohibit differential costs but does prohibit a fee designed to prevent material from out of the jurisdiction.

Comment Number	Received From	Question/Comment	Response(s)
	Representatives of California	when any gate fees are supplemental to the actual costs of operating the site. For example, some jurisdiction's use a parcel fee to fund the majority or all of their solid waste program. Waste from out-of-the-area would not contribute to that base costs and fees should be allowed. The use of the word "limit" could not allow a differential fee. This issue can be addressed by allowing additional criteria in (c).	This section would not prohibit reasonable fees intended to recoup additional processing or screening costs. Differential fees must be tied to actual costs.
4479	Heaton, S. Rural County Representatives of California	Article 11 18992.1 Organic Waste Recycling Capacity Planning. (a) Counties, in coordination with cities and regional agencies shall (1) estimate the amount of all organic waste (OW) in tons that will be disposed by the county and cities, (2) identify the amount in tons of existing OW recycling infrastructure capacity both in county and outside of the county that is verifiably available to the county and jurisdiction within the county, and (3) estimate the amount of new or expanded OW facility capacity that will be needed to process the OW identified in (1) in addition to the existing capacity identified in (2). Should this not specify that is 75% of the total amount of OW in tons?	A change to the regulatory text is not necessary because the proposed change would entail placing a numerical limit on a jurisdiction, which is not allowed by the statute.
4480	Heaton, S. Rural County Representatives of California	Article 11 18992.1 (e) This requirement imposes an additional definition of organics even if only for this section on Capacity Planning. Some other organics may be difficult to quantify separate from other organics, e.g. sludge from digestates and biosolids.	CalRecycle has revised Section 18992.1(f) in response to this comment. The change adds another information source that can be used for this requirement. The change is necessary because statewide or local characterization studies typically do not characterize digestate/biosolid, as they are not a part of the commercial and residential waste stream. 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/biosolids. This data would be used in addition to either statewide or local characterization studies. The RDRS 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 onsite). Since this data will include large generators, CalRecycle will include this data in the capacity planning tool.
4481	Heaton, S. Rural County Representatives of California	Article 12 18993.1 Recovered Organic Waste Product Procurement Target. (a) A jurisdiction shall annually procure a quantity of organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by the Department. The use of the word "target" conflicts with the "requirement to meet or exceed." In addition to products purchased directly by a jurisdiction, recovered organics waste products procurement by others through a jurisdiction's action should also be included. A jurisdiction may require contractors to procure materials as part of their services. Many procurement transactions can occur without direct involvement with the transaction.	The commonly understood definition of "target" is a "goal to be achieved" or "an objective or result toward which efforts are directed." Irrespective of the use of the word "target," it is clear from the context of the regulations that the jurisdiction is permitted to exceed the procurement target, goal or objective.
4482	Heaton, S. Rural County Representatives of California	Article 12 Section 18993.1 (d) The timing of these procurement mandates is conflicting. Provisions (a) requires jurisdictions to annually procure organics that meet to exceed current annual recovered organics but CalRecycle does not inform the jurisdiction of the procurement target beginning January 1, 2022 (d), the same day Jurisdiction should have a least one year to meet the procurement target.	CalRecycle has revised the draft regulatory text so that all the necessary details for a jurisdiction to calculate its own procurement target are publicly available. There is nothing in the regulations to prevent a jurisdiction from calculating their own target prior to CalRecycle notification and preparing to be in compliance by January 1, 2022. In fact, that is why the regulatory process began so far in advance. The regulations will be finalized in early 2020, allowing jurisdictions approximately two years to plan and implement programs to be in compliance by January 1, 2022.

Comment Number	Received From	Question/Comment	Response(s)
4483	Heaton, S. Rural County Representatives of California	Article 12 (e) This language limits the options for procurement credit. Many jurisdictions do not have formal “contracts” with providers but use “agreements” or other provisions for jurisdiction services. This section should be expanded with a (3) to allow for other jurisdiction actions. In addition, there is no definition of “direct service provider”.	CalRecycle has revised the regulatory text in Section 18982(17) to amend the definition of “direct service provider” to clarify that a contract or other written agreement, for example a Memorandum of Understanding (MOU), could be used to prove the direct service provider relationship.
4484	Heaton, S. Rural County Representatives of California	Article 12 (f) This language limits the eligible materials to only compost and renewable transportation fuel. Given the lack of compost facilities and the expense and time to obtain vehicles that use renewable fuel, procurement of mulch, wood chips, and other products should be allowed. Renewable fuels might also applicable for energy production and not just fuel.	CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
4485	Heaton, S. Rural County Representatives of California	Article 13 18994.1 Initial Jurisdiction Compliance Report. Each jurisdiction shall report to the Department by February1, 2022 on its implementation and compliance with the requirements of this chapter including a copy of ordinances adopted to implement the requirements and the date the jurisdiction will ensure that all containers used by generators will be in compliance with the container color requirements. Shouldn’t ordinances also include or “other enforceable mechanisms”? Also why require a jurisdiction state when the container color requirements will be in compliance? They have until 2032.	CalRecycle has revised section 18994.1 in response to this comment. Section 18994.1 was revised to include language that a jurisdiction shall report to the Department a copy of ordinances or other enforceable mechanisms adopted pursuant to this chapter. The requirement to report the date a jurisdiction will ensure that all containers will be in compliance with the container color requirements as specified in Section 18984.7 has been deleted. The Department understands that it may be difficult to speculate the date that all containers will be in compliance with the regulations.
4486	Heaton, S. Rural County Representatives of California	Article 13 18994.2 Jurisdiction Annual Reporting. (d)(5) Relative to implementation of waivers: the number of generators “waived” by the department from the requirements of organic waste collection service. Does this exclude the rural exemptions?”	Comment noted. A change to the regulatory text is not necessary. Rural exemptions are not excluded from reporting the number of generators waived.
4487	Heaton, S. Rural County Representatives of California	Article 13 Jurisdictions are already required to report Integrated Waste Management Plan compliance in the Electronic Annual Report (EAR) due August 1st every year. All Jurisdiction reporting under the SB1383 should be included in EAR and not create an entirely new reporting requirement. In addition, the SB 1383 organics reporting time period should be adjusted to be consistent with the EAR calendar year reporting. Otherwise, jurisdictions are subject to significantly increased reporting with overlapping information for different time periods. This could also lead to conflicting reporting of information. Implementation of this proposal will be difficult enough without significantly increasing jurisdictions reporting requirements.	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.
4488	Heaton, S. Rural County Representatives of California	Article 14. Enforcement Requirements 18995.4 Enforcement by a Jurisdiction. (a) If an entity has been found in violation, the jurisdiction shall take enforcement action. What is the definition of entity?	CalRecycle did not include a definition for “entity” because it is using the term in the regulations consistent with the commonly understood dictionary definition of the word as opposed to a specialized term requiring regulatory clarification. The term “entity” is used thousands of times in various state statutes without definition for the same reason.

Comment Number	Received From	Question/Comment	Response(s)
			<p>Regarding commenter’s concern regarding use of the phrase “...and other entities,” this phrase appears almost exclusively in the “General Provisions” portion of the regulations at Sections 18981.1 and 18981.2 and is intended to be a catch-all term for entities that are subject to explicit regulation under this rulemaking (eg. food recovery services and organizations) that are not otherwise listed in those sections. In Section 18981.2, the phrase is further limited to other entities “subject to the jurisdiction’s authority...” This is intended to exclude certain entities like state agencies, federal facilities, special agencies and other such entities that are not subject to a local jurisdiction’s regulatory authority. See the definition of “non-local entity” in Section 18982(a)(42).</p> <p>CalRecycle agrees that any inspections are subject to Fourth Amendment requirements. CalRecycle agrees that a jurisdiction is not obligated to undertake inspections or other enforcement action against entities outside of their regulatory jurisdiction. Inspection and enforcement against a “non-local entity,” as appropriate, would be undertaken by CalRecycle</p>
4489	Heaton, S. Rural County Representatives of California	<p>Article 15 18996.2 Department Enforcement Action Over Jurisdictions. (a) If the Department finds that a jurisdiction is violating any provisions, the Department may take the following actions:</p> <p>(2) The Department may extend the timeframe for a jurisdiction to comply beyond the 180 days by issuance a Corrective Action Plan (CAP) for up to 24 months if there are extenuating circumstances and the jurisdiction has made substantial effort to comply. A jurisdiction shall submit a written request for the extension at least 30 days prior to the NOV final compliance date with documentation demonstrating its substantial effort to comply. Substantial effort does not include circumstanced where a decision-making body of a jurisdiction has not taken the necessary steps to comply including failure to provide staff resources, a failure to provide sufficient funding to assure compliance, or a failure to adopt required ordinances.</p> <p>(3) The CAP shall be issued for no longer than 24 months. If there is lack of infrastructure, the process to permit new facilities is much longer than two years.</p>	<p>Comment noted . This comment is not suggesting a regulatory text change or commenting on the regulatory process followed by CalRecycle.</p>
4490	Heaton, S. Rural County Representatives of California	<p>Article 15 18996. Access for Inspection by the Department. (b) This subdivision is not intended to permit an employee or agent of the Department to enter residential property. Does “intended” mean that they can? This subdivision should clearly state that it “shall not” apply to residential property and not just “intended”. Does it include multifamily residential? It is not clear what are considered “proper credentials”. In addition, some entities have specific safety requirements that must be complied with and those requirements should be included.</p>	<p>This section, and Section 18984.10 is intended to function as guidance that CalRecycle will need access to perform its inspection duties and is intended to be subject to the Fourth Amendment to the U.S. Constitution.</p>
4491	Heaton, S. Rural County Representatives of California	<p>Article 15 18996.6 Department Inspections and Compliance Reviews of State Agencies and Facilities. If the Department finds that a state agency or facility is violating these provisions, the Department may issue a NoV requiring compliance within 90 days and may grant an additional 180-day extension if evidence is provided that additional time is needed. Why do the state agencies receive a 180-day extension and jurisdiction generators only receive a 90-day extension? And why do the local education agencies not get any extension?</p>	<p>A change to the regulatory text is not necessary. Pursuant to 18996.6, the Department has oversight and enforcement over state agencies and facilities. Enforcement actions against these entities is fundamentally different in nature from enforcement action against other regulated entities. Pursuant to section 18996.2 Department Enforcement Action Over Jurisdictions, if a jurisdiction is issued a Notice of Violation, it has 90 days to comply. If it cannot comply within that timeframe, it may request an additional 90-day extension. If the Department finds that the jurisdiction has made substantial effort to comply and there are extenuating circumstances that</p>

Comment Number	Received From	Question/Comment	Response(s)
			have prevented it from complying, it may be placed on a Corrective Action Plan (CAP) for an additional 24 months.
4492	Heaton, S. Rural County Representatives of California	Article 15 18996.6 (4) If the Department finds a state agency or state facility fails to comply with the NoV, the Department may take the following enforcement actions: list the state agency or facility on the OW Recovery Noncompliance Inventory, request that the Department of General Service (DGS) conduct an audit, notify the Governor, and notify the legislature. Why aren't the state agencies and facilities not required to do a CAP and be subject to the same penalty structure as the local jurisdictions?	A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.
4493	Heaton, S. Rural County Representatives of California	Title 14 Article 6.0 17402. Definitions (7.5) "Incompatible material" or "incompatibles," – This definition seems incomplete. What about inert material that are natural like boulders? Why is it limited to "human-made"?	A change to the regulatory text is not necessary. The intent of this section is to identify items that would be considered a contaminant. The term "human-made" is used to identify material that are potentially a threat to public and safety and the environment (e.g. glass, shards vs glass bottles). The naturally occurring items, such as bolder, do not possess that same level of threat to the public health and safety and the environment as the "human-made" material.
4494	Heaton, S. Rural County Representatives of California	Title 14 Article 6.0 (11.5) "Mixed Waste Organic Collection Stream" – Why the reference to Section 18984.1 since three-cart collection already has a separate green organics container?	CalRecycle has revised this section in response to comments. The change deleted the different containers colors listed to "containers." The change is necessary to make Section 17402 consistent with the requirements of Sections 18984.1, 18984.2, and 18984.3.
4495	Heaton, S. Rural County Representatives of California	Title 14 Article 6.0 (23.5) "Remnant organic material" means the organic material that is collected in a gray container that is part of the gray container collection stream." As used in the loadchecking section this is an impossible threshold. One thimble full of organics would qualify as a remnant. The definition should be changed to a quantifiable threshold similar to one established for recycling centers and other standards.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17049.5.7. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
4496	Heaton, S. Rural County Representatives of California	Title 14 Article 6.0 17402.5. Definitions and Related Provisions Regarding Activities That Are Not Subject to the Transfer/Processing Regulatory Requirements. (c)(7) "Rendering activities" – Rendering activities usually have some pre-sorting activities to remove incidental, unacceptable items from the feedstock prior to the rendering process. This definition requires all collected feedstock to undergo manufacturing or rendering. This definition should be adjusted.	A change to the regulatory text is not necessary. This section is consistent with the definition used in the in-vessel digestions regulations. The intent of the definition is to clarify the type of activity that is not subject to the requirements of the transfer/processing operation or facility. It further clarifies that the handling of any solid waste that bypasses the manufacturing or rendering process is subject to the transfer/processing regulatory requirements and may require a solid waste facilities permit.
4498	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.1. Organic Waste Recovery Efficiency (a) "This section applies to transfer and processing facilities and operations that conduct processing activities." This implies that the requirements in 17409.5.1 apply to all transfer and processing facilities that conduct processing regardless of managing organics.	Comment noted. Yes, your understanding is correct. In order to achieve these targets, the measurement protocol is necessary to determine the level of efficiency of a facility or operation to separate organic material for recycling.

Comment Number	Received From	Question/Comment	Response(s)
4499	Heaton, S. Rural County Representatives of California	<p>Title 14 Article 6.2 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream</p> <p>(a)The requirement for daily sampling is excessive, costly, and overly burdensome to operations and facilities. Especially to smaller sites. This entire requirement should be restructured to more a reasonable schedule. This section should allow for volume measurements and not weight for operations or facilities that do not have scales. Some rural sites do not even have access to power for scales. Under the pending AB 901 Recycling and Disposal Reporting regulations, rural areas are exempt from having a scale for weighing loads. This exemption should continue under these proposed regulations.</p> <p>Measuring the amount of organics on that operating day would require the measurement to take place at the end of the operating day. Given the comprehensive requirements for this sampling requirement, that sampling effort and recording will take considerable time, especially for larger sites. The time to conduct this sampling and recording could easily result in staff exceeding their scheduled operating hours. After the sampling is complete, the organics may need to be securely stored will take additional time at the end of the operating day.</p>	<p>CalRecycle has revised Sections 17409.5.9(b) in response to comments. The change will allow the EA, with concurrence by the Department, to approve an alternative method described under Section 1855.1.9(g) if scales are not accessible. This change will align with the adopted AB 901 regulations (RDRS).</p> <p>Regarding the methodology: CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
4500	Heaton, S. Rural County Representatives of California	<p>Title 14 Article 6.2 17409.5.2 (b)(2) This section requires determining the weight of each sample of each organic type. There is no clear definition of organic waste type. If the requirement is to track each material listed in the Section 18982 (a)(46), the effort needed to conduct this sampling increases significantly. How will a sampler determine mixed organics such as drywall nailed to lumber, or carpet stapled to wood strips? Will disassembly be required? The requirement for measuring organic waste type is not required in Sections 17409.5.3, 17409.5.4, or 17409.5.5 There is also no ability to apply for a lesser frequency of sampling which would be especially helpful to small tonnage sites</p>	<p>Comment noted. The organic waste types required to be measured would include each material type listed in Section 18982 (a)(46). The purpose of these regulations is not to describe the means and methods for which to remove all contamination effectively in a source separated or mixed waste collection system, but to measure how efficient the facility is at recovering organic waste from these waste streams. Section 17409.5.4 requires a sample of each organic waste type separated after recovery or further process be taken for the measurement, please see Section 17409.5.4 ((b)(1). Whereas, Sections 17409.5.3 and 17409.5.5 are intended to measure the organic waste in the material send to disposal not waste type. In addition, the sections allow the operator to propose an alternative sampling protocol for approval by the EA and concurrence from CalRecycle.</p>
4501	Heaton, S. Rural County Representatives of California	<p>Title 14 Article 6.2 17409.5.3. Measuring Organic Waste in Residuals Removed from Mixed Waste Organic Collection Stream The comments above under Section 17409.5.2 also apply here. The following text in italics was copied from Section 17409.5.2 by this CalRecycle processor - This section requires determining the weight of each sample of each organic type. There is no clear definition of organic waste type. If the requirement is to track each material listed in the Section 18982 (a)(46), the effort needed to conduct this sampling increases significantly. How will a sampler determine mixed organics such as drywall nailed to lumber, or carpet stapled to wood strips? Will disassembly be required? The requirement for measuring organic waste type is not required in Sections 17409.5.3, 17409.5.4, or</p>	<p>Comment noted. The organic waste types required to be measured would include each material type listed in Section 18982 (a)(46). The purpose of these regulations is not to describe the means and methods for which to remove all contamination effectively in a source separated or mixed waste collection system, but to measure how efficient the facility is at recovering organic waste from these waste streams. Section 17409.5.4 requires a sample of each organic waste type separated after recovery or further process be taken for the measurement, please see Section 17409.5.4 ((b)(1). Whereas, Sections 17409.5.3 and 17409.5.5 are intended to measure the organic waste in the material send to disposal not waste type. In addition, the sections allow the operator to propose an alternative sampling protocol for approval by the EA and concurrence from CalRecycle.</p>

Comment Number	Received From	Question/Comment	Response(s)
		17409.5.5 There is also no ability to apply for a lesser frequency of sampling which would be especially helpful to small tonnage sites	
4502	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream The comments above under Section 17409.5.2 also apply here. The following text in italics was copied from Section 17409.5.2 by this CalRecycle processor -This section requires determining the weight of each sample of each organic type. There is no clear definition of organic waste type. If the requirement is to track each material listed in the Section 18982 (a)(46), the effort needed to conduct this sampling increases significantly. How will a sampler determine mixed organics such as drywall nailed to lumber, or carpet stapled to wood strips? Will disassembly be required? The requirement for measuring organic waste type is not required in Sections 17409.5.3, 17409.5.4, or 17409.5.5 There is also no ability to apply for a lesser frequency of sampling which would be especially helpful to small tonnage sites	Comment noted. The organic waste types required to be measured would include each material type listed in Section 18982 (a)(46). The purpose of these regulations is not to describe the means and methods for which to remove all contamination effectively in a source separated or mixed waste collection system, but to measure how efficient the facility is at recovering organic waste from these waste streams. Section 17409.5.4 requires a sample of each organic waste type separated after recovery or further process be taken for the measurement, please see Section 17409.5.4 ((b)(1). Whereas, Sections 17409.5.3 and 17409.5.5 are intended to measure the organic waste in the material sent to disposal not waste type. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.
4504	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.6. Source Separated Organic Waste Handling (b) The requirement for having clearly identifiable areas for managing organics described in the Facility Plan or Transfer/Processing Report will require every operation or facility in the state to undergo a permit change. This is an expensive and time-consuming process. Organics activities can occur within already identified areas without requiring a permit change simply to add an area on a map. Many operations and facilities already have ability to handle organics without undergoing a permit change.	Comment noted. Depending on the type of operational change and the type of tiered permit, a specific permit action might be warranted (RFI Amendment, Permit Revision, etc.). If the permit allows for this type of activity, an RFI Amendment may only be required. If the permit prohibits this type of activity, then some type of permit action may be required. Operators should consult with the Local Enforcement Agency and CalRecycle's Permitting and Assistance Branch's Point of Contact to determine what type of permit action is required for this of change.
4505	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 7409.5.7. Loadchecking – Contamination in Source Separated Organic Waste This section and other proposed loadchecking sections are discussed later.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
4506	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.8. Incompatible Materials Limit in Recovered Organic Waste (a) this language implies that recovered organic waste to be "sent" to another facility each operating day. This implication would increase management and transportation costs for handling organics significantly.	A change to the regulatory text is not necessary. The requirement is to sample the waste that is intended to be sent out that day. Once sampled the waste can be stored until the next day but cannot be comingled with any waste that has not yet been sampled.
4507	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.9. Alternatives to Measurement Protocols. The EA approval for alternatives should also apply to Section 17409.5.6.	A change to the regulatory text is not necessary. This section has no measurement protocols. Therefore, there would be no alternative to the measurement protocols for the EA to approve.

Comment Number	Received From	Question/Comment	Response(s)
4508	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.10. Solid Waste Handling at Consolidation Sites. (c) Consolidated sites are small. Requiring source separated organics to be kept separate from other solid waste streams is not feasible. Some consolidated sites do not have an attendant and thus no one to monitor the public's usage. The small size and scope of these consolidation sites do not lend them to be a location to feasibly maintain the source separation.	A change to the regulatory text is not necessary. The definition is necessary to distinguish sites that conduct processing from those that do not. Processing is defined in existing text and not part of this rulemaking process. The intent is not to add a new type of operation or facility but to clarify which existing type of facilities and operations are not subject to facilities measurement or record keeping requirements.
4509	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.10. Solid Waste Handling at Consolidation Sites. In addition, direct transfer facilities are prohibited by their operating standards from sorting materials. In order to comply with this requirement, an additional direct transfer vehicle would be needed. Subsection (c) should be removed.	A change to the regulatory text is not necessary. The definition is necessary to distinguish sites that conduct processing from those that do not. Processing is defined in existing text and not part of this rulemaking process. The intent is not to add a new type of operation or facility but to clarify which existing type of facilities and operations are not subject to facilities measurement or record keeping requirements.
4510	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 Section 18984.3.(d) allows for collection of bagged organics in the single-container service to be delivered to the consolidation site. However, Section 17409.5.10 requires that consolidation sites "shall keep source separated organic waste streams separate from other solid waste streams." The allowance to use the bagged organics service should be allowed to continue at the consolidation site and beyond until the mixed load reaches a facility that can remove and process the bagged wastes.	A change to the regulatory text is not necessary. There is no restriction for the type of containers that are sent to consolidation sites only that it is there for storage and that no processing will be conducted at these sites. Sections 18984.1, 18984.2, and 18984.3 allow for containers with bagged organics to be sent to a consolidation site to be stored without processing. The bagged organic waste in the containers will remain in the containers until transported to a facility that will comply with the organic recovery efficiency requirements.
4511	Heaton, S. Rural County Representatives of California	Title 14 Article 6.2 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream This section and other proposed loadchecking sections are discussed later.	Comment noted. Comment is not commenting on the regulatory language.
4512	Heaton, S. Rural County Representatives of California	Title 14 Article 6.3 17414.2. Recordkeeping and Reporting Requirements for Mixed Waste Organic Waste and Source Separated Organic Waste. As indicated earlier from the pending AB 901 Recycling and Disposal Reporting regulations, rural sites are not required to have scales for weighing anything. Maintaining records with weights is in conflict and should be revised to reflect the pending requirements in Section 18809.2 and 18810.2.	CalRecycle has revised Sections 17409.5.9 and 17414.2 in response to comments. Section 17409.5.9 was revised to allow the EA, with concurrence by the Department, to approve an alternative method described under Section 1855.1.9(g) if scales are not accessible. Section 17414.2 was revised to require records be accessible for five years. These changes will align with the adopted AB 901 regulations (RDRS).
4513	Heaton, S. Rural County Representatives of California	Title 14 Article 6.3 Loadchecking requirements There are five activities that require loadchecking. Most requirements between type are identically or very consistent. Some comments that apply to all loadchecking requirements are discussed here and apply to: <ul style="list-style-type: none"> • Article 6.2 Operating Standards., Section 17409.5.7. Loadchecking – Contamination in Source Separated Organic Waste • Section 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream • Article 5.0. Composting Operation and Facility Siting and Design Standards • Article 2.0. Siting and Design, Section 17896.25.1. Loadchecking – Contamination in Source Separated Organic Waste • Article 4. CalRecycle—Controls, §20901. CalRecycle—Loadchecking Contamination in Source Separated Organic Waste 	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.

Comment Number	Received From	Question/Comment	Response(s)
4514	Heaton, S. Rural County Representatives of California	<p>Title 14 Article 6.3 General comments applicable to all types are:</p> <ul style="list-style-type: none"> • (a)(1) This proposed language requires one loadcheck for every 500 tons but two loadchecks if less than 500 tons are received. This is confusing since a facility with 499 tons or less is required to conduct two loadchecks but if 500 to 999 tons are received only one loadcheck is required. 	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
4515	Heaton, S. Rural County Representatives of California	<p>Title 14 Article 6.3 The allowance for an EA to approve an alternative frequency for loadchecking includes a requirement for the EA to determine that the incoming material from the source separated organic waste collection stream does not contain any remnant organic material. "Any remnant organic material" is an impossible threshold. One thimble full of organics would disqualify an alternative. The standard should be changed throughout all loadchecking requirements to a quantifiable number.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
4516	Heaton, S. Rural County Representatives of California	<p>Title 14 Article 6.3 Similarly, attempting to identify the amount of visible remnants organic materials lacks specific criteria. This standard should also be changed to a quantifiable number.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
4517	Heaton, S. Rural County Representatives of California	<p>Title 14 Article 6.3 There are several inconsistent loadcheck requirements between the types and are included in the table below: The referenced table could not be included in this comment matrix. The reader must refer to the original letter to see this table.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative</p>

Comment Number	Received From	Question/Comment	Response(s)
			solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
4518	Heaton, S. Rural County Representatives of California	Title 14 Article 6.3 In-vessel, landfills and disposal sites only need one random load check per each source sector; whereas, the others are daily. It is not clear why these are different.	CalRecycle has deleted the loadchecking requirements at In-Vessel digestion operations and facilities and landfills/disposal in response to comments.
4519	Heaton, S. Rural County Representatives of California	Title 14 Article 6.3 Landfills and disposal site are required to keep records of loads with contamination that exceeds 10% whereas other types are required to keep records of any visual contamination. The 10% threshold should be used of all loadcheck records so that every gum wrapper is not reported.	CalRecycle has deleted the loadchecking requirements at landfills in response to comments.
4520	Heaton, S. Rural County Representatives of California	Title 14 Article 6.3 • Section 17409.54.11 requires the loadcheck for visible remnant organic matter. It is not clear why Section 17409.5.11 loadchecks are not required to be conducted in the presence of the EA when requested.	CalRecycle has deleted the loadchecking requirement Section 17409.5.11 in response to comments.
4521	Heaton, S. Rural County Representatives of California	Title 14 Article 6.3 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream This section does not require “The operator shall conduct a loadcheck in the presence of the EA when requested” as required of the other types of activities requiring loadchecks.	CalRecycle has deleted the loadchecking requirement Section 17409.5.11 in response to comments.
4522	Heaton, S. Rural County Representatives of California	Article 5 Article 5.0. Composting Operation and Facility Siting and Design Standards Section 17867. General Operating Standards (a)(4)(E)(2) The allowance for an EA to approve an alternative frequency for loadchecking includes a requirement for the EA to determine that the incoming material from the source separated organic waste collection stream does not contain any remnant organic material. “Any remnant organic material” is an impossible threshold. One thimble full of organics would disqualify an alternative. The standard should be changed to less than one percent (used in existing composting requirements) or a more reasonable number.	CalRecycle has deleted the loadchecking requirements in Section 17867 in response to comments.
4523	Heaton, S. Rural County Representatives of California	Subchapter 4. Criteria for Landfills and Disposal Sites Article 4. CalRecycle—Controls 20901. CalRecycle—Loadchecking Contamination in Source Separated Organic Waste (a)(3) This proposed language requires “At least one loadcheck per quarter from each service area”. There is no definition of service area. It is not clear if this additional loadcheck can be included in other loadchecks for the same location. Depending upon the definition of service area, this could require one to a dozen or more loadchecks each quarter. There are already sufficient loadchecks required so this additional loadcheck is not necessary and should be removed.	CalRecycle has deleted the loadchecking requirements, Section 20901 in response to comments.
4524	Heaton, S. Rural County Representatives of California	Chapter 3. Article 2. 20700.5. CalRecycle—Long-Term Intermediate Cover (a) CalRecycle has provided no basis for the requirement to use at least 36 inches of compacted earthen material for long-term intermediate cover. Cover material provides protection from gas migration through the cover, controls vectors, and prevents fires. Simply doubling the current standard is without sufficient merit and will result in a significant additional expense to landfills. In order to achieve the	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
		compacted requirement, significantly more soil will be needed than just applying 36 inches to allow for compaction. Using a more is better approach is not scientific. That expense is better spent addressing other requirements in the proposed regulations.	
4525	Heaton, S. Rural County Representatives of California	Chapter 3. Article 2. Additionally, methane emissions are already regulated at landfills including monitoring requirements. In addition, Health and Safety Code 39730.6 states that “the state board shall not adopt, prior to January 1, 2025, requirements to control methane emissions associated with the disposal of organic waste in landfills other than through landfill methane emissions control regulations.” Doubling the amount of cover diverts funds from program implementation with no added benefit. This provision should revert to the current 18 inches.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
4526	Heaton, S. Rural County Representatives of California	Chapter 3. Article 3. 20750.1. CalRecycle– Organic Waste Handling. Similar to concerns expressed in comments on Section 17409.5.6., the requirement for having clearly identifiable areas for managing organics will require every facility in the state to undergo a permit change. This is an expensive and time-consuming process. Organics activities can occur within already identified areas without requiring a permit change simplify to add an area on a map. Many operations and facilities already have ability to handle organics without undergoing a permit change.	Comment noted. Depending on the type of operational change and the type of tiered permit, a specific permit action might be warranted (RFI Amendment, Permit Revision, etc.). If the permit allows for this type of activity, an RFI Amendment may only be required. If the permit prohibits this type of activity, then some type of permit action may be required. Operators should consult with the Local Enforcement Agency and Department’s Permitting and Assistance Branch’s Point of Contact to determine what type of permit action is required for this of change.
4527	Heaton, S. Rural County Representatives of California	21570. CalRecycle—Filing Requirements (f)(13) CalRecycle provided no clarity on why there would be a public meeting prior to submittal of a permit application package when a similar requirement for an informational meeting already exists after submittal. Currently, operators are required to submit a permit application 180 days prior to getting approval for the change. Imposing an additional 180 days before the submittal would result in starting the process for new or expanded solid waste facility one year prior to the change. Given that othe requirements in the proposed regulations will mandate changes to permits and some implementation deadlines happen in 2022, there will be little time to start permit changes in time. Furthermore, to the extent that additional timelines and meeting requirements extend the permitting process, this could also push back the opening date of a proposed facility and similarly delay achievement of the state’s organic waste recycling targets.	CalRecycle has revised this section in response to comments. The section was modified to clarify that the operators of a new or expanded facility hold a public meeting with any affected disadvantage communities 180 days of submitting a permit application package. This change in this section is necessary to clarify that the 180 days is not an extension to the already established time in regulations for a permit application package but part of it. The purpose of this section is to ensure that if there are any affected disadvantage communities, they are provided an opportunity to attend the meeting and comment on the project.
4528	Heaton, S. Rural County Representatives of California	Subchapter 3. Article 2.The requirements under existing Section 21660.2 already impose an informal meeting for New and Revised permits after submittal. Changes to this section also require identifying disadvantaged communities, the proposed requirement in 21570 (f)(13) should be removed and included in section 21660.2. In addition, Section 21570 (f)(13) requires including “any affected group” in the public meeting, That term has no definition and has no limit as to how far from the facility the affected group is located. The term “affected group” should be removed.	<p>CalRecycle has revised this section in response to comments. The section was revised to delete the term “groups” from “affected groups” and change the term “disadvantage communities” to “affected disadvantage communities” and define the term “affected disadvantage communities.” This was necessary to better clarify the term to let operators know who would be represented in this group so that they are notified and are provided an adequate opportunity to attend and provide comments on the project. The section was also renumbered to Section 21570(g).</p> <p>Section 21660.2 is an Enforcement Agency’s (EA) requirement. EA’s are required to hold informational meetings for new and revised Solid Waste Facility Permits. This is different than the operator’s requirements for Section 21570(f)(13), which has been renumbered to Subdivision (g).</p>

Comment Number	Received From	Question/Comment	Response(s)
4529	Heaton, S. Rural County Representatives of California	<p>Article 3.2 21695. CalRecycle—Organic Disposal Reduction Status Impact Report (c) a number of the listed factors are unaffected by the reduction of organics from disposal and should be eliminated from the reporting requirement, including:</p> <ul style="list-style-type: none"> • (4) volumetric capacity – the capacity of the landfill will not change. It will fill up slower but a box is still a box • (5) Waste handling methods will likely have minimal change • (8) closure cell design will not change • (9) final grading plans will not change • (12) cost estimates for closure will not change, postclosure may have minimal impacts from less organics • (13) financial assurance mechanisms will not change. The amount required may change but the actual mechanism will not change. If more funds are required, ore funds may be needed. 	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations. The SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is necessary to assist the operator in determining and assessing in the timing of those impacts to properly implement any changes or modifications in a timely manner. In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills. If there will be no changes to a particular item, then a statement to that effect would be adequate.</p>
4530	Heaton, S. Rural County Representatives of California	<p>This comment number was used for "Attachment B Bear Waiver Justification" in its entirety. The reader must refer to the original letter to see Attachment B.</p>	<p>CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826. As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes. Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. This comment argued that the limited space of locked bear boxes, which this commenter’s jurisdiction uses to secure garbage bins, creates a capacity issue. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, nothing prevents the jurisdiction from providing smaller containers that could fit inside bear boxes.</p>
4531	Heaton, S. Rural County Representatives of California	<p>As indicated in the ISOR, many of the proposed regulatory provisions proceed from the apparent assumption that SB 1383 granted CalRecycle potentially unlimited authority to control any conceivable aspect of human behavior that it deems relevant to "achiev[ing] the organic waste reduction goals" set forth in the statute. No grant of regulatory authority is - or constitutionally could be - that overbroad. (See Clean Air Constituency v. State Air Resources Bd. (1974) 11 Cal.3d 801.) Rather, CalRecycle's authorizing statute (PRC 46252.5) must be read in light of SB 1383 as a whole and its legislative history, which clearly indicate - and delimit - the types of regulations the Legislature intended to authorize and the roles to be played by state</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..." Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>and local agencies. Proposed regulatory provisions clearly beyond the Legislature's contemplation are consequently legally suspect, particularly where they purport to substantially alter the balance of authority between state and local governments carefully established by the Legislature under the Integrated Waste Management Act or where they ignore the split between state and local responsibilities outlined in SB 1383.</p>	<p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, “A local jurisdiction may charge and collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations adopted pursuant to this section.”</p> <p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute “requirements for local jurisdictions” and “penalties to be imposed by CalRecycle for noncompliance.” The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>jurisdictions to enforce the ordinances that they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight. The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or: they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p> <p>The initial language in Section 18997.2 regarding administrative civil penalties imposed by local jurisdictions was revised to be consistent with Government Code Sections 25132, 36900, and 53069.4 in response to comments.</p>

Comment Number	Received From	Question/Comment	Response(s)
4532	Heaton, S. Rural County Representatives of California	Moreover, the proposed regulations ignore numerous provisions of law affirming local government authority or limiting that of CalRecycle in various areas. While the ISOR selectively cites provisions of the Integrated Waste Management Act that it contends support certain regulations, it overlooks others granting decision-making authority to local governments, rather than CalRecycle (e.g., PRC 40051(b); 40059(a)(1), 41851, etc.) - and pays virtually no attention to limitations contained in other statutes or constitutional provisions	<p>Regarding Public Resources Code Section 40051(b), this section is irrelevant to local decision-making authority and is instead a directive to both CalRecycle and local agencies to maximize source reduction, recycling and composting options to reduce solid waste disposal. Regarding Public Resources Code Section 41851, this section is specific to the existing authority of counties and cities regarding land use decisions (eg. zoning, use permits). Nothing in these proposed regulations infringes on local land use authority per the specific directive on this subject in proposed Section 18990.1(c)(3).</p> <p>Regarding Public Resources Code Section 40059(a)(1),</p> <p>Regarding Public Resources Code Section 40059, there are two phrases that must be taken into account in its application to SB 1383.</p> <p>First, Public Resources Code Section 40059 applies to aspects of solid waste handling “which are of local concern.” The organic waste diversion mandates in SB 1383 are of statewide application and statewide concern. As described in other responses to comments, CalRecycle was granted broad statutory authority by the Legislature to create rules designed to implement these statewide mandates and ensure the statutory organic waste diversion requirements are met. To the extent there are provisions in the rulemaking that touch on aspects of local solid waste handling, these are regarding matters of statewide concern that have been determined by CalRecycle to be necessary to achieve the goals of SB 1383.</p> <p>Second, Public Resources Code Section 40059 contains the introductory phrase, “Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern...” This phrase contemplates that other laws exist that may affect local solid waste handling and that the mere existence of those laws does not automatically preempt local governments from regulating the enumerated subject areas. It was designed to make clear that the state was not preempting the entire field of solid waste handling and that local jurisdictions were still allowed to regulate in certain areas.</p> <p>As such, Public Resources Code 40059 is not a limitation on CalRecycle from regulating aspects of solid waste handling to the extent they are of statewide concern.</p>
4533	Heaton, S. Rural County Representatives of California	Certain specific aspects of this flawed approach are discussed in greater detail later; however, the impacts of CalRecycle's misinterpretation pervasively affect many portions of the regulatory process and expose these regulations as a whole to legal challenge. CalRecycle is urged to reexamine the legal basis for the proposed regulations carefully - as the regulations may be unenforceable and thus ineffective in their current form.	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .' The [administrative agency] is authorized to "fill up the details" of the statutory scheme.'</p> <p>Consistent with CalRecycle's broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission's 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that "state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas." As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board's Short Lived Climate Pollutant Strategy states, "CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products."</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle's 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, "A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section."</p> <p>PRC Section 42652.5 provides a broad grant of rulemaking authority to CalRecycle that includes the authority to institute "requirements for local jurisdictions" and "penalties to be imposed by CalRecycle for noncompliance."</p> <p>The proposed regulations do not strip local jurisdictions of discretion in enforcing purely local ordinances. The regulations instead are requiring local jurisdictions to enforce the ordinances that</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>they are required to adopt, under 14 CCR Section 18981.2, pursuant to a statewide, rather than purely local, regulatory program subject to Department oversight.</p> <p>The Legislature set ambitious organic waste diversion mandates on a short timeline and robust enforcement of regulatory requirements is essential to meeting those mandates.</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p> <p>The initial language in Section 18997.2 regarding administrative civil penalties imposed by local jurisdictions was revised to be consistent with Government Code Sections 25132, 36900, and 53069.4 in response to comments.</p>

Comment Number	Received From	Question/Comment	Response(s)
4534	Heaton, S. Rural County Representatives of California	Local Procurement Mandates are Not Authorized by SB 1383 and are Inconsistent with Other Statutes. Local procurement mandates are not authorized by SB 1383. CalRecycle’s authorizing statute (Public Resources Code (PRC) 42652.5) clearly contemplates regulation of organics generators and other relevant entities, not consumers. SB 1383 also prohibits establishment of specific limits and targets for individual jurisdictions. While the prohibition is framed in terms of disposal targets, that is because procurement targets were not contemplated.	<p>The procurement requirements are within CalRecycle's rulemaking authority. SB 1383 provides a broad grant of regulatory authority to the Department in Public Resources Code Section 42652.5, “The department, 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.” That section also provides that the Department may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, the Department also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where the Department successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board’s Short Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, "A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section."</p>
4535	Heaton, S. Rural County Representatives of California	<p>Local Procurement Mandates are Not Authorized by SB 1383 and are Inconsistent with Other Statutes. The proposed local procurement mandates are also inconsistent with other statutes. Just as CalRecycle responded in the April 16th meeting that CalRecycle did not have the authority to mandate state agency procurement as it was covered in other statutes, local procurement requirements for recycled materials are already regulated by statute in Public Contract Code (PCC) 22150 et seq. The Legislature designed these regulations with sensitivity to local procurement processes, and local costs - requiring that recycled materials be purchased only when "recycled products are available at the same or a lesser total cost than nonrecycled items" - among other limitations. The proposed mandate to purchase "recovered organic waste products" without acknowledging increased cost (or any of the other statutory limitations) disregards the policy choices made by the Legislature. The extent to which the paper purchasing provisions of the State Agency Buy Recycled Campaign apply to local agencies (as proposed by CalRecycle) is specifically addressed in PCC 22153, and RCRC believes CalRecycle lacks authority to expand this statutory provision.</p>	<p>The described statutory sections are informational requirements rather than specific purchasing requirements and there is no conflict with the proposed regulations. Nor is there any explicit Legislative intent expressed in these sections to limit other measures to achieve viable end use markets for recycled material. These statutory sections, if anything, evidence the Legislature's recognition that procurement of recycled material is critical in increasing end use markets.</p> <p>PRC 41074, 41204, 41374, and 41404 are not conflicting procurement mandates or an explicit provision for local authority over procurement but are instead informational requirements to be included in various elements of Countywide Integrated Waste Management Plans (CIWMP). What these portions of the CIWMP elements do is to require a descriptive narrative of methods, if any, which will be used to increase markets for recycled materials. Nothing in these sections are specific to the exact types of materials included in the proposed procurement requirements in the proposed SB 1383 regulations nor do they place any conflicting requirements on levels of procurement.</p> <p>PRC Section 40913 requires CalRecycle to develop a program to assist local agencies in the identification of markets for materials diverted from disposal through source reduction, recycling and composting. It is not a specific procurement requirement, but rather a general informational requirement placed on CalRecycle to assist local government in finding end use markets for materials diverted from disposal. The requirement is not specific to any particular type of recycled material and there is no limitation evidenced in the statute that restricts other types of requirements for end use markets for recycled material.</p> <p>PRC Section 42600 requires CalRecycle to develop a statewide public information and education program to encourage participation by the general public, business, government, and industry in all aspects of integrated waste management. One component of this program is to "[e]ncourage local government procurement of products containing recycled materials..." Again, this is a general informational requirement rather than a procurement requirement, is not specific to any particular type of material, and evinces no intent by the Legislature to limit or restrict other measures to develop end use markets for recycled material.</p> <p>CalRecycle made changes to the regulatory language in Section 18993.1(f)(1) and 18993.3(a) to make the procurement requirements consistent with Public Contract Code requirements.</p>
4536	Heaton, S. Rural County Representatives of California	<p>Local Procurement Mandates are Not Authorized by SB 1383 and are Inconsistent with Other Statutes. AB 939 specifically addresses methods "to increase the markets" for recycled and composted material, including local procurement preferences for cities and counties in PRC 41074, 41204, 41374, and 41404. These</p>	<p>The described statutory sections are informational requirements rather than specific purchasing requirements and there is no conflict with the proposed regulations. Nor is there any explicit Legislative intent expressed in these sections to limit other measures</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>statutes expressly leave the determination of whether and how to establish such programs to cities and counties. CalRecycle's efforts to override these provisions and establish such mandates at the state level are contrary to these other statutes. AB 939 also specifically addresses the role of CalRecycle in local procurement programs in PRC 40913 and 42600 - repeatedly limiting that role to "assistance" and "encouragement." RCRC believes these statutes, and the statutory scheme as a whole, do not authorize or contemplate that CalRecycle will attempt to establish such a mandatory program.</p>	<p>to achieve viable end use markets for recycled material. These statutory sections, if anything, evidence the Legislature's recognition that procurement of recycled material is critical in increasing end use markets.</p> <p>PRC 41074, 41204, 41374, and 41404 are not conflicting procurement mandates or an explicit provision for local authority over procurement but are instead informational requirements to be included in various elements of Countywide Integrated Waste Management Plans (CIWMP). What these portions of the CIWMP elements do is to require a descriptive narrative of methods, if any, which will be used to increase markets for recycled materials. Nothing in these sections are specific to the exact types of materials included in the proposed procurement requirements in the proposed SB 1383 regulations nor do they place any conflicting requirements on levels of procurement.</p> <p>PRC Section 40913 requires CalRecycle to develop a program to assist local agencies in the identification of markets for materials diverted from disposal through source reduction, recycling and composting. It is not a specific procurement requirement, but rather a general informational requirement placed on CalRecycle to assist local government in finding end use markets for materials diverted from disposal. The requirement is not specific to any particular type of recycled material and there is no limitation evidenced in the statute that restricts other types of requirements for end use markets for recycled material.</p> <p>PRC Section 42600 requires CalRecycle to develop a statewide public information and education program to encourage participation by the general public, business, government, and industry in all aspects of integrated waste management. One component of this program is to "[e]ncourage local government procurement of products containing recycled materials..." Again, this is a general informational requirement rather than a procurement requirement, is not specific to any particular type of material, and evinces no intent by the Legislature to limit or restrict other measures to develop end use markets for recycled material.</p>
4537	Heaton, S. Rural County Representatives of California	<p>The Provisions to Preempt "Locally Adopted Standards and Policies" Are Both Unclear and Legally Invalid Article 9 purports to preempt a wide array of local regulations addressing everything from flow control to land use. To begin with, the language and intended effect of many of these provisions are unclear. Section 18990.1(b)(1) would preclude a local government from "prohibit[ing]" many types of organic waste processing. However, it's not clear whether this was intended to preempt any ordinance "prohibiting" even a single person from undertaking some organic waste processing endeavor they desire, or rather only complete bans upon organic waste processing anywhere in the jurisdiction (as suggested by the example noted in the ISOR). Similarly, by preempting ordinances "limit[ing]" acceptance of imported organic waste (§ 18990.1(b)(2)), did CalRecycle intend to preempt only direct import bans, or also ancillary "limits," such as differential fees? If so, how would that be consistent with PRC 41903, which expressly authorizes such fees? These ambiguities invite litigation, which will delay and undermine any benefit CalRecycle hopes to achieve with this regulatory package.</p>	<p>Article 9 section 18990.1 (b)(1) prohibits complete bans on organic waste processing anywhere in the jurisdiction. Public Resources Code section 41903 authorizes "special fees of a reasonable amount" on imported waste. This section does not authorize fees that would act as a ban on import, but simply allows reasonable fees to cover additional costs for imported waste.</p> <p>A change to the regulatory text is not necessary. United Haulers Association Inc., et al. v. Oneida-Herkimer Solid Waste Management Authority et al. states that an ordinance requiring waste go to a public facility does not violate the flow control restrictions of the Interstate Commerce Clause, does not authorize or require that municipalities be allowed to do so under the U.S. Constitution, nor does it prohibit a state from prohibiting such restrictions.</p> <p>State law explicitly promotes the free movement of material under the Integrated Waste Management Act, Public Resources Code Sections 40001 and 40002, and this restriction is designed to ensure that.</p> <p>Section 18990.1 (c) (4) simply notes that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery. This section does not state what the regulations are requiring, but rather what the regulations do not do. Thus, United Haulers Association Inc., et al. v. Oneida-Herkimer Solid Waste Management Authority et al. is irrelevant.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Read together, section 18990.1 (b) (3) prohibits a local ordinance that restricts flow, and section 18990.1 (c) (4) allows for contractual relationships, which does not restrict the flow of materials.
4538	Heaton, S. Rural County Representatives of California	The Provisions to Preempt "Locally Adopted Standards and Policies" Are Both Unclear and Legally Invalid More fundamentally, these provisions appear to derive from the same flawed approach toward CalRecycle's regulatory authority noted above, which is especially problematic here. The provisions cited in the ISOR do not come close to authorizing the broad preemption attempted by these regulations. The general provisions of PRC 40002 and 40053, and a single unpublished trial court decision involving a complete ban upon one particular "widely used, widely accepted, comprehensively regulated method" of organic waste disposal, do not support CalRecycle's wideranging effort to preempt local regulation of every method of organic waste processing - including any possible future method CalRecycle may specify. The Integrated Waste Management Act does not - and CalRecycle cannot - thus "obliterate[] all vestiges of local power as to a subject where municipalities have traditionally enjoyed a broad measure of autonomy." (Waste Resource Technologies, supra, 23 Cal.App.4th at p. 306.)	CalRecycle disagrees. This section consistently notes protections of flow control that already exist. The commenter should also review the LA v Kern County Measure E decision expressly noting that the Integrated Waste Management Act preempts local flow restrictions (starting at p. 21 of the decision).
4539	Heaton, S. Rural County Representatives of California	The Provisions to Preempt "Locally Adopted Standards and Policies" Are Both Unclear and Legally Invalid The effort to preempt local solid waste import and export regulations is even more clearly flawed. The language of PRC 40002 cited in the ISOR to support this regulation was added by Senate Bill 845 of 2012. That bill also added PRC 40059.3, which clearly specifies that these provisions apply only to privately owned or operated solid waste facilities. That limitation was not accidental, as the bill originally covered publicly owned facilities as well, and counties removed their opposition to the legislation only upon the deletion of those provisions. CalRecycle cannot add provisions to the Act that the legislature has explicitly rejected. The regulations' attempt to prohibit import restrictions at publicly owned solid waste facilities - and their similar effort to broadly preempt export and flow control regulations beyond the requirements of the Commerce Clause - are contrary to statute and impermissible.	A change to the regulatory text is not necessary. CalRecycle disagrees. This section consistently notes protections of flow control that already exist. The commenter should also review the LA v Kern County measure E decision expressly noting that the Integrated Waste Management Act preempts local flow restrictions (starting at p. 21). The authority to prohibit flow restrictions is not solely based upon SB 845.
4540	Heaton, S. Rural County Representatives of California	The Complainant Confidentiality Requirements Are Both Unlawful and Detrimental to Effective Enforcement Section 18995.3 would require local agencies to "[u]pon request, ensure that the name and contact information of a complainant remain confidential" – without exception. Keeping complainant identities confidential is obviously a good general practice; however, this cannot legally be assured in all cases – and such assurances would be highly imprudent in any event. Under the California Public Records Act, records of complaints to government agencies (outside the criminal process) are presumptively subject to public disclosure – unless it is determined, on a case-by-case basis, that "the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record." Under this standard, an agency is often justified in withholding the identities of complainants - but the authorities have emphasized	Section 18995.3 was substantially amended during the rulemaking process and the requirement to maintain confidentiality is no longer in the regulatory language.

Comment Number	Received From	Question/Comment	Response(s)
		<p>that this is a fact-specific determination, and not a foregone conclusion in all cases. (City of San Jose v. Superior Court (1999) 74 Cal.App.4th 1008, 1022; 78 Ops.Cal.Atty.Gen. 103 (1995).)</p> <p>While the name of an individual who complained about their neighbor would likely be exempt from disclosure in most cases, the legal analysis for disclosing complaints by one corporate competitor against another might be quite different. CalRecycle cannot override the Public Records Act and dictate a particular result for this case-by-case analysis in all circumstances. (This extends to civil discovery as well, where CalRecycle cannot create privileges against production by regulation, nor dictate the outcome of the fact-specific official information privilege under Evidence Code section 1040.)</p>	
4541	Heaton, S. Rural County Representatives of California	<p>The Complainant Confidentiality Requirements Are Both Unlawful and Detrimental to Effective Enforcement Further, even if confidentiality could legally be ensured in all cases, doing so would seriously undermine enforcement in some cases. The local jurisdiction may need to reveal the source of a complaint - or information that could lead to identification of the source - in order to pursue an enforcement case, especially if the violation is contested. While enforcing agencies typically endeavor to keep this information confidential where possible, mandating that they do so in all instances will, inevitably, result in enforcement cases that must be abandoned, or are lost in administrative or judicial proceedings. CalRecycle is urged to incorporate some necessary flexibility into this portion of the regulations.</p>	<p>Section 18995.3 was substantially amended during the rulemaking process and the requirement to maintain confidentiality is no longer in the regulatory language.</p>
4542	Heaton, S. Rural County Representatives of California	<p>The Business Inspection Provisions Violate the Fourth AmendmentSection 18996.4 provides that "an authorized Department employee or agent shall be allowed to enter an entity's premises during normal working hours to conduct inspections and investigations..." (See also § 18984.10.) The term "entity" is undefined, but it appears to include all organic waste generators, except for residential properties (i.e., any business that creates organic waste). Failure to allow such an inspection is subject to significant penalties of up to \$5,000 for the first violation. (§ 18997.3.) This is plainly unconstitutional. Even business premises are protected by the Fourth Amendment's prohibition upon unreasonable searches. Certain "closely regulated" industries may be inspected without a warrant; however, "[a]dministrative searches conducted pursuant to statutes of general applicability require search warrants." (V-1 Oil Co. v. Wyoming, Dep't of Environment Quality (10th Cir. 1990) 902 F.2d 1482, 1487; Marshall v. Barlow's, Inc. (1978) 436 U.S. 307, 313-14.) The range of businesses that generate organic waste includes everything from restaurants to lawn mowing services, and plainly does not fit within the narrow scope of "closely regulated" industries identified by the Supreme Court. Further, "even when the closely-regulated-industry exception dispenses with the warrant requirement, the Fourth Amendment still requires that the government's intrusion into the property be reasonable." (People v. Potter (2005) 128 Cal.App.4th 611, 619.) The caselaw articulates a variety of requirements in order for such a warrantless search to be reasonable (ibid.; City of Los Angeles v. Patel (2010) 135 S.Ct. 2443) - none of which</p>	<p>This section, and Section 18984.10 is intended to function as guidance that CalRecycle will need access to perform its inspection duties and is intended to be subject to the Fourth Amendment to the U.S. Constitution.</p>

Comment Number	Received From	Question/Comment	Response(s)
		are satisfied in the proposed regulations. The regulations should be revised to eliminate any suggestion that CalRecycle may - or local agencies should - conduct warrantless inspections of any subject "entity."	
4543	Heaton, S. Rural County Representatives of California	<p>The Local Penalty Provisions Are Contrary to the Express Language of SB 1383 and Inconsistent with the Government Code Provisions Regulating Local Penalties. Section 18977.2 requires local jurisdictions to impose specific penalties for a first, second, or third violation of the regulations. The ISOR notes that “the department set minimum penalty thresholds to discourage jurisdictions from not complying with the requirements of the chapter.” Unfortunately, this ignores the express language of SB 1383. The Legislature deliberately crafted Public Resources Code Section 42652.5(a)(1) so that CalRecycle’s regulations “may require local jurisdiction to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance” (emphases added). It is important to note where the Legislature used different language within the same sentence. While CalRecycle’s regulations can “require” locals to impose requirements on generators, the statute is clear that the regulations can only “authorize” jurisdictions to impose penalties. Statutes should be read to “accord[]significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose,” and avoid interpretations that make some words surplusage. (Dyna-Med, Inc. v. Fair Employment & Housing Com. (1987) 43 Cal.3d 1379, 1387.) If the Legislature did not want jurisdictions to have discretion in imposing penalties, it could have simply eliminated the words “may authorize local jurisdictions”; however, their inclusion forces CalRecycle to give meaning to them. As such, CalRecycle’s attempt to require local jurisdictions to impose penalties for noncompliance is at odds with the statute it seeks to implement.</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
4544	Heaton, S. Rural County Representatives of California	<p>The Local Penalty Provisions Are Contrary to the Express Language of SB 1383 and Inconsistent with the Government Code Provisions Regulating Local Penalties. Furthermore, Section 18997.2 purports to require local jurisdictions to impose penalties according to a scheme that is inconsistent with Government Code Sections 25132 and 53069.4. The ISOR’s assertion that the proposed penalty “range is consistent with the amounts specified in Government Code Section 53069, 25132 and 36900” is incorrect. Government Code Section 53069.4(a)(1) provides that violations of local ordinances that are infractions shall not exceed the maximum amounts set forth in Section 25132 (for county ordinances) and Section 36900 (for city ordinances). The Government Code provides that a fine of up to \$100 can be imposed for a first violation, \$200 for a second violation of the same ordinance within one year of the first violation, or \$500 for each additional violation of the same ordinance within one year of the first violation. As the ISOR notes, CalRecycle “set minimum penalty thresholds to discourage jurisdictions from not complying with the requirements of the chapter.” While the maximum amount per violation is the same as included in the Government Code, the proposal is inconsistent with respect to the minimum penalty that can be imposed (\$50, \$100, and \$200 for a first, second, or third violation). In practice, the amounts proposed in Section 18997.2 may significantly exceed the Government Code limits because CalRecycle failed to include the temporal language requiring a second or subsequent violation to occur within one year of the first violation in order to trigger higher maximum penalties. Finally, the penalty scheme proposed is inconsistent with the Government Code because it fails to allow jurisdictions to grant a hardship waiver as afforded in Government Code Section 25132(d) and 36900(d). This inconsistency cannot be assumed to be an oversight given the language in the ISOR and the fact that a</p>	<p>The regulatory language was revised for consistency with Government Code limitations on local penalties.</p>

Comment Number	Received From	Question/Comment	Response(s)
		related relief mechanism is proposed for penalties imposed by CalRecycle under proposed Section 18997.3(d). Taken as a whole, these penalty provisions are both inconsistent with the underlying statute they seek to implement and are inconsistent with the penalties that cities and counties are allowed to impose for infractions under the Government Code.	
4545	Heaton, S. Rural County Representatives of California	The Standardized Regulatory Impact Analysis is Inadequate as an Informational Document For major regulations, such as those proposed here, the agency must "assess the potential for adverse economic impact on California business enterprises and individuals" through a "standardized regulatory impact analysis" addressing, among other things "[t]he competitive advantages or disadvantages for businesses currently doing business within the state." (Gov. Code, § 11346.3.) The purpose of this analysis is to "inform the agencies and the public of the economic consequences of regulatory choices." (Ibid.) "Although we do not understand this requirement to impose a heavy burden on the agency, we cannot deem it satisfied by an opaque calculation unsupported by any facts or other evidence explaining its validity as a reasonable estimate." (Western States Petroleum Assn. v. Board of Equalization (2013) 57 Cal.4th 401, 431.)	<p>Comment noted. In response to this comment, CalRecycle prepared a broader evaluation of the competitive advantage and disadvantages that will be faced by all businesses, not only businesses engaged in recycling and edible food recovery. The Appendix to the ISOR concludes that certain businesses in California may gain a competitive advantage over other California businesses, and certain businesses may lose an advantage or be placed at a disadvantage. This Appendix notes that this will depend on a variety of factors including the business' location, type and size. The Appendix to the ISOR additionally addresses the ability of California businesses to compete with out of state businesses:</p> <p>"This analysis reveals that certain businesses in the state may enjoy a competitive advantage over other businesses, while others may face a competitive disadvantage, or have a previous advantage reduced... Finally, as noted above CalRecycle revised economic modeling to assume that the costs associated with the regulation will partially absorbed by businesses (rather than all costs being passed through to consumers), which would result in higher operating costs. Higher operating costs serve to make these firms less competitive, driving down exports and overall sales, all else being held equal.</p> <p>This effect is modeled with the production cost policy variable in the REMI model, and 50 percent of all costs were modeled with the production cost policy variables."</p> <p>See pages 24-28 of the Appendix to the ISOR.</p>
4546	Heaton, S. Rural County Representatives of California	The Standardized Regulatory Impact Analysis is Inadequate as an Informational Document The SRIA assumes that regulatory costs borne by all businesses in the aggregate may be offset by the economic benefits derived by all businesses in the aggregate - thus failing to acknowledge or evaluate any potential that the costs or benefits might be unevenly distributed amongst different industries, or competitors within the same industry. For example, the costs for edible food recovery will be typically be paid by all businesses through waste collection rates, but the benefits will be retained almost exclusively within the food industry. Similarly, although the SRIA acknowledges that some costs may vary between localities, it makes no effort to determine how regional differences in costs and rates might create competitive disadvantages for some businesses. Will higher transportation costs and lack of recycling facilities in rural areas put those businesses at a disadvantage vis-a-vis urban competitors? The SRIA should answer these questions but it doesn't, and therefore fails the informational role mandated by the Legislature.	<p>Comment noted. CalRecycle presented a revised estimate of costs and benefits in the Appendix to the ISOR which was released for public comment in November of 2019. Tables 15-A and 15-B show a range of potential costs by business based on the size of the business. This was included in the Appendix to the ISOR to address the concern that potential costs and benefits may be unevenly distributed. CalRecycle additionally presented a regional analysis in the Appendix to the ISOR to disclose potential differences in costs incurred by various regions. While it is speculative to project exact costs each individual business will bear, the tables provided in the Appendix, show that costs for businesses that generate less waste will be less than businesses generating more waste.</p> <p>Comment noted. It is unclear what is meant that the benefits will be retained exclusively by the food industry. Many of the actions associated with recovering edible food will occur through requirements placed directly on the food industry; however, it is speculative to assume where the benefits will be distributed. The comment appears to intimate that food service providers such as restaurants will receive retain all of the benefits from the food recovery requirements. The food recovery requirements will result in the recovery of edible food that the restaurant would have disposed. The regulations require that restaurants and other entities make arrangements with food recovery services and organizations that can distribute edible food to people. The direct beneficiaries of these requirements will be the Californians receiving this edible food through the food recovery networks. This will further create societal benefits as it can reduce hunger, further</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>recovering food that would otherwise be disposed in a landfill will reduce greenhouse gas emissions. The benefits of reducing greenhouse gas emissions are not retained with any specific business.</p> <p>CalRecycle agrees that it is likely that the costs of food recovery will be incorporated in waste collection rates paid by all businesses. In response to this comment, CalRecycle additionally prepared an estimate of the food recovery per and isolated those costs to businesses to show how this cost could be concentrated on businesses. See Page 26- 27 of the Appendix to the ISOR. Comment noted. CalRecycle disagrees with the commenter’s interpretation of the requirements for conducting a SRIA. A regional cost differential is not a direct statutory requirement for a SRIA. CalRecycle notes that the externalities involved make any attempt to compare how a regulation will impact a donut store in Tulare to an office park in San Jose in 2030, for example, is speculative and beyond the scope of reason.</p> <p>However; in response to this comment, CalRecycle prepared two estimates of regional variation in the Appendix to the ISOR. See pages 29-32 of the Appendix to the ISOR. Of note, as this comment suggests the regulation will impose disproportionate impacts on rural communities which have higher costs due to market distance and the lack of economies of scale, the regional variation analysis includes a specific estimate of the costs for rural communities. CalRecycle amended the regulations to ease the burden on rural communities. The analysis in the Appendix to the ISOR notes:</p> <p>“Minus the inclusion of the rural waivers, rural areas would incur a disproportional level of costs. On a per capita basis, rural residents would incur \$5.83 per month, more than double the estimated statewide average per capita rate. This does show a potential regional impact in rural areas that is greater than the impact that would be felt in the rest of the state. However, once the costs that are linked to the waived requirements are accounted for, the impact in rural areas is reduced to \$0.57 per month. Once waiver provisions of the regulations are accounted for, the financial impact to rural areas, as defined here, is projected to be less on per capita basis than other areas of the state. It is important to emphasize that these numbers represent an estimated statewide average and costs experienced in individual jurisdictions may vary.”</p>
4547	Heaton, S. Rural County Representatives of California	The Standardized Regulatory Impact Analysis is Inadequate as an Informational Document The SRIA suffers from evidentiary and methodological flaws. As a threshold matter, the calculation, even of direct costs, is indiscernible. It is entirely unclear how the central "net" figure of \$330 million dollars over 11 years (or the gross figures upon which it is based, \$20.9 billion in cost offset by \$17 billion in "direct economic benefit") was derived from the amounts set forth in the various individual cost categories (many of which use different timeframes). Which costs are included in the final figure, over what period, and which offsets, cannot be ascertained from the information provided. A reasonable public observer has no way to determine how the final estimate of \$662 per business annually actually relates to the costs set forth in the SRIA, and whether it is reasonable. For this reason alone, the SRIA fails that "modest requirement of rationality and	<p>As noted in the SRIA, costs and benefits were projected over a 12-year period. The projected net cost over 12 years is \$3.9 billion, or \$330 million per year for 12 years. The estimated annual cost per business is the result of applying half of the annual projected cost of implementation to the estimated 380,000 businesses. With regard to the cost per business, this is explained on page 14 of the SRIA which states:</p> <p>“Based on this analysis, the average net cost per year is approximately \$330 million. Ultimately, the costs of implementing these regulations will be passed on to ratepayers, both commercial businesses and households. To avoid double- counting, CalRecycle allocated the cost 50/50 between businesses and households based on the waste stream distribution between commercial and residential. As a result, 50 percent of the costs would be distributed among businesses and 50 percent would be distributed among households. Approximately 380,000 businesses that would be regulated, the majority of which are small businesses, the average cost per business would be</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>transparency" imposed by the APA. (Western States Petroleum Assn., supra, 57 Cal.4th at p. 431.)</p>	<p>approximately \$662 annually. Assuming the other half of these costs would be passed on to households, the average increased cost per household would be approximately \$17 per year." The estimated cost per business was revised in the Appendix to the ISOR to reflect changes to the regulation and revised estimates of business numbers.</p> <p>The information relied upon to produce the SRIA was noted in the SRIA. The SRIA, and the subsequent Appendix to the ISOR, disclosed CalRecycle's findings regarding the estimated cost. The rulemaking record, including all information relied upon for the rulemaking, has been available to the public for review throughout the rulemaking process. CalRecycle's announcement of comment periods disclosed this fact.</p> <p>Comment noted. The methodology for calculating collection costs are fully disclosed in the Appendix to the ISOR. Regarding how collection costs were calculated, the Appendix to the ISOR includes the following text:</p> <p>"As noted in the SRIA, CalRecycle used a modified version of the Cost Study on Commercial Recycling to estimate the cost of collection and processing of organic waste. CalRecycle adjusted the model to reflect updated projections of tonnage and material types used in the Draft EIR. As noted above, CalRecycle additionally adjusted costs to reflect inflation for the year 2019 using the Consumer Price Index. The inflation adjusted values are shown in Table 7..."</p> <p>The costs are applied on a per ton basis to residential, multifamily, and the commercial and industrial sectors. The costs for collection are specific to the economic costs associated with collecting one ton of material. The direct costs shown in Table 1 of the Appendix to the ISOR, disclose the direct costs of collection required by the regulation (e.g. waste sampling, contamination monitoring and reporting). The regulations do not require a jurisdiction to pursue a specific collection mechanism, it would be highly speculative to project which compliance model jurisdictions may employ.</p> <p>The information relied upon to produce the SRIA, was noted in the SRIA. The SRIA, and the subsequent Appendix to the ISOR, disclosed CalRecycle's findings regarding the estimated cost. The rulemaking record includes all information relied upon for the rulemaking has been available to the public review throughout the rulemaking process. CalRecycle's announcement of comment periods disclosed this fact.</p>
4548	Heaton, S. Rural County Representatives of California	<p>The Standardized Regulatory Impact Analysis is Inadequate as an Informational Document This failure is compounded by the fact that some of the supposed individual costs and offsets are plainly unsupported by substantial evidence. For example, the SRIA appears to conclude that the edible food collection regulations will have a "net economic benefit" of over \$1.2 billion per year. (SRIA, p. 21.) This is derived entirely by loose extrapolation from a 2016 "Roadmap Report" prepared by an advocacy group - which the SRIA (and CARB's economic analysis on which it is based) seems to have misunderstood. To begin with the \$18 billion dollar "investment" cited in the report (extrapolated to \$1.8 billion in California) appears to have been a fundraising target, rather than an evidence-based calculation of actual costs. (Roadmap Report, pp. 69-71.) Further, the cited "investment" and offsetting "business profit potential" set forth in the report encompass a wide array of activities and offsetting revenues wholly irrelevant to the edible food collection</p>	<p>Comment noted. CalRecycle disagrees that the SRIA was not based on substantial evidence. With respect to the specific comment on the deficiency of the evidence relied upon to estimate the cost of the edible food collection requirements in the SRIA, CalRecycle revised the methodology for estimating these costs and updated the estimates in the Appendix to the ISOR. The Appendix to the ISOR notes:</p> <p>"The SRIA relied upon studies cited in the Short-lived Climate Pollutant (SCLP) Strategy to determine the potential costs and benefits of achieving the edible food recovery targets. In response to stakeholder issues with this approach, and their concerns with the findings in the studies cited in the SLCP, CalRecycle revised the methodology for analyzing the potential economic impacts of food recovery in several ways. The revised edible food recovery costs and the revised methodology for calculating those costs are discussed in Costs Associated with Infrastructure Collection and Processing: Edible Food Recovery."</p>

Comment Number	Received From	Question/Comment	Response(s)
		program mandated by these regulations. (Also, contrary to the assumptions in the SRIA, the report makes clear that these costs and offsetting revenue are not evenly distributed but are experienced differently by different types of businesses.)	The revised methodology to estimate the cost of food recovery is disclosed on page 21 of the Appendix to the ISOR.
4549	Heaton, S. Rural County Representatives of California	The Standardized Regulatory Impact Analysis is Inadequate as an Informational Document The SRIA exacerbates this error by offsetting all of the edible food collection program costs by a supposed \$1.2 billion in annual "household savings" - which appears to refer to California's share of the "\$100 billion in societal economic value" postulated in the report. "Societal economic value" is not the same thing as cost savings to all or any group of "households" or businesses - and one cannot accurately assess the real cost impact to businesses (large or small) if those costs are offset by nebulous "societal economic value" figures. It is thus impossible to ascertain any meaningful information about the actual cost impact of the food recovery requirements from the SRIA. (Moreover, it appears that these constructed "societal economic value" and "net economic benefit" figures were further used to improperly offset the real costs imposed by other parts of the proposed regulatory package, further undermining the informational value of the final figures set forth in the SRIA.) Such speculative information is not sufficient to fulfill CalRecycle's obligations under the APA. (California Assn. of Medical Products Suppliers v. Maxwell-Jolly (2011) 199 Cal.App.4th 286,305-306.)	<p>Comment noted. In the SRIA and the Appendix to the ISOR, CalRecycle calculated the direct economic costs and the direct economic benefits in consultation with the California Department of Finance. Additionally, CalRecycle, in consultation with the California Air Resources Board, calculated the social, and public health benefits associated with avoided pollutants and greenhouse gas emissions. These benefits, while significant, were not used to offset the direct economic costs. Only tangible financial benefits were used to offset tangible finance costs. For example, the value of recovered paper (though greatly reduced) partially offsets the cost of recovering paper. The estimated economic benefit of reduced pollution, which is monetized in the form of avoided hospitalization, though significant, is not used to offset direct economic costs such as collection costs.</p> <p>The commenter noted that the data relied upon to estimate the costs of food recovery calculated in the SRIA offset costs with societal benefits. As noted above, CalRecycle revised the estimates of the food recovery costs in the Appendix to the ISOR. To the extent the data relied upon in the SRIA improperly offset costs with societal benefits, this was corrected in the revised calculations released for public comment in the Appendix to the ISOR.</p>
4550	Heaton, S. Rural County Representatives of California	The Standardized Regulatory Impact Analysis is Inadequate as an Informational Document Perhaps more importantly, the SRIA also utilizes improper methodology throughout - making some of the very same mistakes identified in John R. Lawson Rock & Oil, Inc. v. State Air Resources Bd. (2018) 20 Cal.App.5th 77. The SRIA appears to assume that it need only evaluate the "competitive disadvantage to the recycling and edible food recovery industry" (SRIA, p. 41), which is entirely mistaken. The APA requires that agencies "must look at each type of business subject to the relevant proposals and consider whether those proposals will advantage or disadvantage that particular type..." (Ibid.) The impact of these regulations falls upon a much wider range of businesses than "the recycling and edible food recovery industry," and the SRIA makes no effort whatsoever to categorize these business by size, industry, or region, and assess the relative impacts on each.	<p>Comment noted. In response to this comment, CalRecycle prepared a broader evaluation of the competitive advantage and disadvantages that will be faced by all businesses, not only businesses engaged in recycling and edible food recovery. The Appendix to the ISOR concludes that certain businesses in California may gain a competitive advantage over other California businesses, and certain businesses may lose an advantage or be placed at a disadvantage. This Appendix notes that this will depend on a variety of factors including the business' location, type and size. The Appendix to the ISOR additionally addresses the ability of California businesses to compete with out of state businesses:</p> <p>"This analysis reveals that certain businesses in the state may enjoy a competitive advantage over other businesses, while others may face a competitive disadvantage, or have a previous advantage reduced... Finally, as noted above CalRecycle revised economic modeling to assume that the costs associated with the regulation will partially absorbed by businesses (rather than all costs being passed through to consumers), which would result in higher operating costs. Higher operating costs serve to make these firms less competitive, driving down exports and overall sales, all else being held equal.</p> <p>This effect is modeled with the production cost policy variable in the REMI model, and 50 percent of all costs were modeled with the production cost policy variables."</p> <p>See pages 24-28 of the Appendix to the ISOR.</p>
4551	Heaton, S. Rural County	The Standardized Regulatory Impact Analysis is Inadequate as an Informational Document This failure is critical, because the central purpose of these APA provisions is to induce "a consideration of how [] small businesses are impacted by	Comment noted. In response to this comment, in the revised cost estimated included in The Appendix to the ISOR, CalRecycle estimated a range of business costs. Notably in response to this

Comment Number	Received From	Question/Comment	Response(s)
	Representatives of California	regulations relative to larger in-state businesses that will not feel the impact of such regulations at the same scale." (Ibid.) The SRIA endeavors to avoid this by assuming that the impacts upon all businesses will be uniform (\$662 annually); however, even if that assumption was supported by substantial evidence, this ignores the central purpose of these statutory provisions. \$662 per year is meaningless to a big box store, but potentially devastating to the sole proprietor of a small cottage food business - a differential impact that the SRIA does not even attempt to evaluate.	comment, the analysis includes an estimate of business costs based on the size of the business and their relative waste generation. Comment noted. In response to this comment, CalRecycle prepared a broader evaluation of the competitive advantage and disadvantages that will be faced by all businesses, not only businesses engaged in recycling and edible food recovery. The Appendix to the ISOR concludes that certain businesses in California may gain a competitive advantage over other California businesses, and certain businesses may lose an advantage or be placed at a disadvantage. This Appendix notes that this will depend on a variety of factors including the business' location, type and size. The Appendix to the ISOR additionally addresses the ability of California businesses to compete with out of state businesses: "This analysis reveals that certain businesses in the state may enjoy a competitive advantage over other businesses, while others may face a competitive disadvantage, or have a previous advantage reduced... Finally, as noted above CalRecycle revised economic modeling to assume that the costs associated with the regulation will partially absorbed by businesses (rather than all costs being passed through to consumers), which would result in higher operating costs. Higher operating costs serve to make these firms less competitive, driving down exports and overall sales, all else being held equal. This effect is modeled with the production cost policy variable in the REMI model, and 50 percent of all costs were modeled with the production cost policy variables." See pages 24-28 of the Appendix to the ISOR.
4552	Heaton, S. Rural County Representatives of California	Jurisdiction Edible Food Recovery Program (Section 18991.1) As partners in achieving the edible food recovery goal, it may be rational to include an education and outreach component to the food recovery program and to assist in providing access to the organizations and services available to the generators. While monitoring compliance adds significant staff time and cost, we understand the necessity to be able to measure achievements. However, RCRC believes it is beyond the scope and capacity of our solid waste managers to increase and fund the edible food recovery capacity.	It is written in the law of SB 1383 that the Department must adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. To help achieve the statewide 20% edible food recovery goal, SB 1383's regulations require jurisdictions to implement edible food recovery programs, which includes the requirement that a jurisdiction shall increase edible food recovery capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs. Assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. If sufficient capacity does not exist, then significant amounts of edible food will continue to be disposed rather than being put to its highest and best use of helping feed Californians in need. In addition, if the capacity planning requirements were removed the state would be at risk of not achieving its 20% edible food recovery goal. It is at the discretion of the jurisdiction to determine what jurisdiction entity is best suited to assess edible food recovery capacity and ensure that compliance with this regulatory requirement becomes a part of their scope. Regarding the comment about funding edible food recovery capacity. To clarify, the language in the regulations regarding funding is permissive. The language states that a jurisdiction may fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms. The regulatory language uses the word "may" and not "shall." This language does not require jurisdictions to provide funding. Rather, it allows jurisdictions to provide funding if they would like to do so. If a jurisdiction does decide to fund their edible food recovery program

Comment Number	Received From	Question/Comment	Response(s)
			<p>through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction to determine how the funding will be dispersed.</p> <p>CalRecycle would also like to note that SB 1383 provides a broad grant of authority to jurisdictions to “collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations...” The types of fees a jurisdiction may impose are not limited to tip fees or franchise fees. That said, some jurisdictions in California are already successfully using such fees to fund food recovery operations and activities.</p>
4553	Heaton, S. Rural County Representatives of California	<p>Department Evaluation of Jurisdiction Compliance (Section 18996.1) This section requires the Department to evaluate a jurisdictions' compliance and notify the jurisdiction in writing of its findings. However, it only provides the jurisdiction the ability to correct deficiencies of an ordinance (and no other compliance issue) prior to commencing enforcement actions set forth in section 18996.2. RCRC would recommend including language such as "prior to initiating any enforcement proceeding, the Department shall notify a jurisdiction in writing of any alleged failure to comply with this article", similar to that found in the recently adopted AB 901 Reporting requirements in section 18815. 10 (b).</p>	<p>A change to the regulatory text is not necessary Section 18996.2 outlines the process in which the Department will notice a jurisdiction of any alleged failure to comply. The jurisdiction will be noticed and given 90 days to comply. The Department may grant an extension for 90 days, if additional time is needed to comply. If the jurisdiction has made substantial effort to meet the maximum compliance deadline but there are extenuating circumstances beyond the control of the jurisdiction, the Department may issue a Corrective Action Plan and extend the deadline for no more than 24 months beyond the date of the original Notice of Violation. Section 18996.1 outlines the process for noticing a jurisdiction for a deficient ordinance. The jurisdiction shall have 180 days to correct deficiencies. If not, the department may commence enforcement action. A violation due to a deficient ordinance is not eligible for placement on a Corrective Action Plan. An ordinance adopted by a jurisdiction that is inconsistent with or does not meet the requirements set forth in this chapter is not upholding the tenets of the chapter and must be corrected in a much shorter timeline.</p>
4554	Heaton, S. Rural County Representatives of California	<p>Department Evaluation of Jurisdiction Compliance (Section 18996.1) With respect to an inconsistent ordinance, if the Department determines a jurisdiction has adopted an ordinance that is inconsistent with or does not meet the requirements of this regulation, depending on the severity of the deficiencies and taking into consideration the drafting of the ordinance, counsel review, and public hearing requirements, 90 days may not be sufficient time to enact an ordinance.</p>	<p>CalRecycle has revised section 18996.1(e) in response to this comment. The change increases the relevant timeline to 180 days.</p>
23	Helget, C, Republic Services	<p>At the outset, we want to note that while we support a reasonable goal of reducing Short Lived Climate Pollutants (SLCPs) and the disposal of organics, we believe that these goals cannot be achieved without all of the following:</p> <ul style="list-style-type: none"> • A dramatic increase in markets for compost and renewable fuels; • Substantial solid waste and recycling rate increases or other sources of funding; <p>and</p> <ul style="list-style-type: none"> • Significant revisions to existing state requirements for siting and permitting solid waste infrastructure including CEQA. 	<p>Thank you for the comment. Commenter is expressing an opinion about elements that will affect the success of reducing Short-Lived Climate Pollutants. Market development is addressed in procurement requirements and the SB 1383 statute provides authority for jurisdictions to charge fees to offset costs of implementing the program.</p>
24	Helget, C, Republic Services	<p>As we now enter the formal regulatory process, we believe that the funding requirements of the SB 1383 regulations can no longer be ignored. Given the magnitude of the estimated cost of implementing these regulations and the ever-rising infrastructure costs associated with SB 1383, what are CalRecycle's recommendations for funding this program? Recommendation: CalRecycle should plan at least one workshop specifically dedicated to discussing funding</p>	<p>CalRecycle will be providing guidance and training to regulated entities. The SB 1383 statute provides authority for jurisdictions to charge fees to offset the costs of implementing the program.</p>

Comment Number	Received From	Question/Comment	Response(s)
		recommendations and to allow stakeholders adequate time to provide feedback and recommendations.	
25	Helget, C, Republic Services	<p>If CalRecycle through a public process can show that markets are developing for organic materials contained in the expanded SB 1383 definition, only then should the regulations be amended. Including non-compostable and non-recyclable organics in the definition of organics will increase contamination in truly compostable and recyclable organics further inflating costs for processing.</p> <p>Recommendation: Delete the current definition on Page 5 and insert: "Organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.</p>	Organic waste that breaks down in a landfill and creates methane must be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy.
26	Helget, C, Republic Services	<p>Not allowing those same activities at landfills is inconsistent particularly when one considers that, unlike all other construction sites, we regularly monitor our sites for ambient emissions. We still object to the 12" restriction and believe that this restriction has not been justified.</p> <p>Recommendation: We recognize that this limit is meant to eliminate abuse, but at the same time we believe that there should be more flexibility if a facility can show that a greater thickness reduces methane emissions or can be justified to better control storm water runoff or is supported by other engineering requirements. The 12" limit should be eliminated since applications for beneficial reuse are already regulated by the LEA based on appropriate engineering standards and practices.</p>	CalRecycle appreciates the acknowledgment of including all forms of beneficial reuse of organic soil amendments at a landfill. The requirement to restrict the application of soil amendments to not exceed a depth of 12 inches is specifically used to reflect existing research that demonstrates that soil amendments greater than a depth of 12 inches can breakdown anaerobically and generate methane. Therefore, the 12 inch application requirement is needed to ensure that organic waste used as a soil amendment at a landfill remains consistent with the state goals established in SB 1383.
27	Helget, C, Republic Services	<p>The revised draft regulations also now include the following language on Page 8 that will limit application of soil amendments, erosion control, revegetation, and slope stabilization:</p> <p>(D)The material applied is never commingled with solid waste and incorporated into the landfill for final deposition.</p> <p>This provision, particularly the new language is vague. If a landfill operator applies material for revegetation and the area grows cover grass but eventually that area is placed into final closure. Is that material that may have been added years ago count as final deposition? Also, there is a certain amount of contamination allowed in green material. The term "never comingled with solid waste" would possibly require any of organic material used for slope stabilization, landscaping, revegetation and erosion control would need to be 100% free of contamination.</p> <p>Recommendation: Please clarify the term incorporation or eliminate the term.</p>	Comment noted. The language at issue was modified during the rulemaking process to remove the terms the commenter was concerned with.
28	Helget, C, Republic Services	<p>Please clarify whether compost overs are limited to the 10% organics content requirement and whether compost overs when used as beneficial reuse or alternative daily cover are disposal or nondisposal.</p> <p>Recommendation: As an alternative to 10% organics content, we would recommend a 35% upper limit (as an annual percentage of inbound volume for a given facility) of what could be sent as overs for use as beneficial reuse from a compost facility. For example, if 100,000 tpy was delivered to a compost facility then only 35,000 tpy (35%) of overs could go as ADC or beneficial reuse and count as diversion or</p>	Comment noted. The organic content limit is not a limit on how much organic waste can be disposed before it is considered disposal but rather if you dispose of organic waste it would count as disposal, unless it is used in a way that meets the requirements of Section 18983.1((b). The percentage is calculated using the measurement protocols described in Section 17867(a)(16). Article 2, Section 18983.1(a) identifies the activities that would constitute landfill disposal. Section 18983.1(b) identifies those activities that would be considered a reduction of landfill disposal. In your example, if the use of the compost overs meets the requirement of activities pursuant to 18983.1(b), such as land application or erosion control, then it would be considered a reduction of

Comment Number	Received From	Question/Comment	Response(s)
		<p>nondisposal. That limit could be reduced over time to allow facilities to adjust processing standards and until adequate markets evolve.</p>	<p>disposal. However, the use of organics (compost overs) as an alternative daily cover would be considered disposal pursuant to Section 18983.1(a).</p>
29	Helget, C, Republic Services	<p>Section 20700.5 Landfills already comply with the methane early action measure and we are not aware of any cost/benefit analysis that was completed for this requirement. We believe the benefits will be minimal and possibly harmful for our gas and leachate collection and will be very costly. Replacing this surface with an additional 24" of soil will likely require importing soil resulting in additional truck miles and emissions at a significant cost. We estimate that covering one acre with an additional 24" of soil will require 200 truckloads of soil.</p> <p>This language was added in May 2018 as a "Minor Policy Change" without further justification or clarification. The Initial Statement of Reason (ISOR) simply states: "This section is necessary to limit greenhouse gas emissions from landfills. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions by allowing for greater landfill gas collection and biogenesis."</p> <p>We have searched the regulatory documents and can find no further explanation of how 36" of additional soil will reduce methane emissions and produce greater landfill gas collection and "biogenesis".</p> <p>The proposed regulation is not supported with technical or cost/benefit analyses. There are significant concerns that it may be counter to the reduction of landfill methane surface emissions and would have other unintended potential adverse environmental impacts associated with odors, leachate control, groundwater contamination, and soil excavation, importation, and placement. The regulation would also result in significant design changes, potential CEQA and permitting conflicts, and significantly reduce planned landfill capacity. These issues would likely result in substantial added costs to ratepayers without a benefit of significantly reducing greenhouse gas emissions.</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>
30	Helget, C, Republic Services	<p>Section 20700.5 Thick soil cover layers left in place within the refuse fill, as would occur with this regulation, may create the buildup of isolated pockets of pressure and impair the efficiency of collection and control of landfill gas and leachate. This issue is a concern set forth by the LEA for the Sunshine Canyon Landfill (SCL) relating to odor control (September 2015 SCL LEA Compilation of Potential Mitigation Practices and Programs). Additionally, CalRecycle's rulemaking files for Alternative Daily Cover (ADC) Regulations (1997-98) based the regulations in part on the potential benefits of permeable alternative covers as compared with soil for control of landfill gas and leachate. Have these documents been included in CalRecycle's estimate of the cost and benefits of this intermediate cover proposal?</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>
31	Helget, C, Republic Services	<p>The added cover thickness would result in significant design review and changes for landfill cell sequencing, drainage, grading, stability, landfill gas collection, excavation, and onsite and import of soil material. These changes will result require</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill</p>

Comment Number	Received From	Question/Comment	Response(s)
		significant time to implement and cost, in addition to CEQA review and permit revision. Have these documents been included in CalRecycle's estimate of the cost and benefits of this intermediate cover proposal and in the timelines to implement this proposal?	that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
32	Helget, C, Republic Services	Thick soil covers are a potential concern regarding ground water contamination. Research conducted in Southern California on arid landfills in the 1990's indicated that thick covers over unlined areas may drive landfill gas down and out and contaminate ground water with volatile organic chemicals. As a result, landfill final cover systems in applicable areas were reduced from the thicker systems initially envisioned. Has Cal Recycle staff considered this possible side-effect and if so, how will this concern be addressed when implementing this proposal?	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
33	Helget, C, Republic Services	Section 20700.5 ARB's Landfill Methane Capture regulations and EPA NSPS requirements are effectively controlling landfill methane emissions from landfills. Current Monitoring programs implement a corrective action plan and retesting requirement to verify that current cover systems are effective. If emissions are detected, either instantaneous or thru integrated sampling, the site is required to remedy, with additional cover, well field adjustments or addition of increased collection systems. Most detections of methane emissions are typically associated from penetrations into the landfill (e.g. extraction wells or collection header piping) and are corrected with compaction of the cover soils around the penetration. To require the placement of an additional 24" of cover is not supported by the surface test results and the loss of space would not be a good steward of the State's permitted disposal capacity. Has Cal Recycle completed any analysis that would effectively counter this data?	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
34	Helget, C, Republic Services	Recommendation: This provision should be deleted and CalRecycle should initiate a comprehensive and scientifically-based analysis of intermediate cover and closure requirements. Any regulatory changes in those requirements should be accomplished in a focused work group setting to ensure that all impacts are properly considered.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
35	Helget, C, Republic Services	Section 17409.5.8 Recommendations: We recommend sampling occur within a one-week period on a quarterly basis and reporting on a quarterly basis rather than monthly. Operators can apply the percentages to daily outbound loads of processed organics and residuals to provide a reasonable estimate of the quantity of organic material that is recovered and disposed. This is particularly applicable to Source Separated Organics (SSO) since SSO loads will be significantly cleaner than mixed waste loads. Periodic sampling will be much more cost effective and will provide similar data to daily sampling, without the additional labor, space and time burdens.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The operator will now be taking composite samples for 10 consecutive days per reporting period, which is on a quarterly basis. Using 10 consecutive days instead of daily 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 get the needed data.

Comment Number	Received From	Question/Comment	Response(s)
			<p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
36	Helget, C, Republic Services	<p>Section 17409.5.7 – loadchecking Recommendation: We recommend that random monthly load checks of each collection route will provide an adequate review for contamination.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
37	Helget, C, Republic Services	<p>Section 17409.5.7 – loadchecking Recommendation: As we understand the regulations, a facility handling SSO must maintain a record of all loads with contamination that exceeds 10%. If the intent of these regulations is to encourage SSO, we believe that this threshold is unreasonable and unenforceable and should be deleted.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
38	Helget, C, Republic Services	<p>Section 17406.5.8 The 10% limit on incompatible materials and on the organic component of residual is very confusing. First, the definition of incompatible materials was introduced in the 2nd Draft and we are still unable to understand the impact of this threshold. Imposing a 10% limit on incompatible material and residuals appears to be a 90% organics reduction requirement and not the 50% and 75% organics reduction targets contained in SB 1383. Further, these 10% requirements are impossible to achieve before the regulations take effect in 2022, even with the best possible education efforts and with the addition of costly processing equipment.</p>	<p>CalRecycle has revised this section to phase in the acceptable level. The change phased in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal from 10 percent by 2022 to 20 percent on and after 2022 and 10 percent on and after 2024. This change was necessary to allow entities time to plan and make necessary adjustments to their operations. The 50% and 75% are statewide targets. In order to achieve these targets, regulatory limitations for processing organic waste must be implemented.</p> <p>The incompatible material limit only applies when organics are being sent from a solid waste facility or operation to a secondary facility or operation for further processing. This is not a final recovery target. The incompatible material limit is to ensure the “cleanliness” of the organic waste separated from the source separated organic waste stream and mixed organic waste stream in order to ensure that the bulk of material sent from the facility will be largely compatible with the type of facility that will be accepting it for further processing.</p>

Comment Number	Received From	Question/Comment	Response(s)
39	Helget, C, Republic Services	Recommendation: We strongly recommend that Cal Recycle distribute a flow chart of both 10% requirements so that stakeholders understand the operational aspects of these requirements and the enforcement implications.	CalRecycle staff has noted the comment. CalRecycle staff will develop tools to assist in the implementation of the regulations.
40	Helget, C, Republic Services	10% limit on incompatible material and the organic component of residual. Recommendation: We recommend that this threshold be replaced with the 50% in 2022 and 25% in 2025 which will be consistent with the thresholds established by SB 1383 or at least phase-in the contamination and residual standards through 2025 to allow facilities to adjust processing standards over time and until adequate markets evolve.	CalRecycle has revised these sections in response to comments. The section was revised to phase in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal. The phase in will allow entities time to plan and make any adjustments in order to comply with the revised acceptable limits of 20% on and after 2022 and 10% on and after 2024. SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. In order to achieve these targets, regulatory limitations for processing organic waste must be implemented.
41	Helget, C, Republic Services	As the current container supply is rotated from service any requirement to replace single containers with the SB 1383 Regulations container requirements will produce generator confusion and color combinations that will be erratic in a service area. We believe that the hauler and local jurisdiction should be allowed to work out a reasonable container replacement plan as long as the containers meet the SB 1383 regulatory requirements by 2032. Question: Please clarify if such local container replacement plans will be allowed.	Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036.
42	Helget, C, Republic Services	The reporting requirements that we currently comply with under AB 1826 have significant crossover or overlap with the SB 1383 regulations reporting scheme. When SB 1383 becomes effective, will the SB 1383 reporting requirements supersede the AB 1826 requirements?? Recommendation: Clarify the relationship between both reporting schemes and eliminate AB 1826 conflicts as SB 1383 requirements are phased-in.	The respective reporting requirements do not supersede one another. They are separate rules. CalRecycle will be providing education and outreach as part of implementation and will assist in clarifying reporting requirements.
43	Helget, C, Republic Services	Section 18987.2 requires that biosolids be transported to composting or Anaerobic Digestion (AD), unless the "biosolids are not suitable for additional processing or recovery". Biosolids can currently be disposed or used for beneficial reuse. We are not sure what "suitable for additional processing" means. In any case, we believe that the nondisposal option for landfilling or beneficial reuse of biosolids should be allowed, particularly during winter months when other recycling or land application options are limited. Recommendation: This section should be deleted or at least define what suitability means and revised to reflect that use for beneficial reuse is not disposal.	CalRecycle has deleted Section 18987.2 in response to comments.
44	Helget, C, Republic Services	Section 20750.1 requires new and expanded landfills to have segregated organic waste recovery activities which are described as "activities that divert organic waste". This provision is very broad. Question: Is a Construction and Demolition (C&D) operation sufficient? Or would this require some sort of processing of gray bin material at a landfill. As mentioned above, do the additional costs warrant an activity designed to capture a small amount of organics that may well not be recyclable.	Comment noted. Organic waste recovery activities include composting facilities or operations, in-vessel digestion facilities or operations, and other activities listed under Section 18983.1(b) that divert organic waste from disposal to constitute a reduction of landfill. The purpose of this section is to require new or expanding landfills to add organic waste recovery activities in order to reduce organic waste disposal. Also, landfills that do not have available land or the finance to implement an organic waste recovery activity on-site have the option to transport the waste off-site to another facility where a recovery activity can take place.

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle staff will develop tools to assist in the implementation of the regulations.
45	Helget, C, Republic Services	<p>Section 21695 requires that six months after the effective date of the regulations, landfills submit a detailed Status Impact Report prepared by a registered engineer. This report, according to the ISOR, is needed to determine potential impacts to the landfill from organics reduction. If necessary, the Joint Technical Document (JTD) must be updated. This additional report seems to duplicate the current permitting and JTD process. This Status Impact Report will be costly to prepare and we are very unclear as to the need and purpose of this report.</p> <p>Recommendation: This section should be deleted and this information can be updated when the facility JTD is updated to comply with these regulations or during a 5-Year Permit Review.</p>	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations. This standard is not duplicative of a five-year review. The purpose of the SIR is to assist operators better understand the potential impact the proposed regulations could have on their landfill which is different than the five-year review. A five-year review is completed by the EA every five years from the last review and evaluates (among other things) the information provided in the application for the proposed facility to determine whether or not the facility will be able to operate in accordance with state minimum standards and permit terms and conditions.</p> <p>Whereas, the SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is necessary to assist the operator in determining and assessing in the timing of those impacts to properly implement any changes or modifications in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p> <p>In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills. If there will be no changes to a particular item, then a statement to that effect would be adequate.</p>
1000	Herl, Emily, Copia	<p>1383 is so important in motivating companies to send their food to feed the massive need our nonprofits have (we have at least four times more shelters, organizations, and programs asking us for food than we have companies donating). Unfortunately, doing the right thing for the environment and the community is not always a strong enough motivator to get our donors to commit the time, energy, and costs of donating their food waste. This requirement is truly a win-win, and legally backs up our plan to use one critical issue (hunger) to tackle another (food waste).</p>	<p>A change to the regulatory text was not necessary because this comment is in support of SB 1383's edible food recovery component.</p>
9145	Hilton, R., HF&H Consultants	<p>Section 0.1.2- The provisions of this section require that jurisdictions implement an SB 1383 compliant program by January 1, 2022. The regulations are clear that this timeline will not be altered by the inability of a jurisdiction to negotiate service agreements or implement rate changes. We are concerned that the requirement to implement programs at any cost is unreasonable and should be mitigated by placing controls on profiteering. The majority of agencies around the state have franchise agreements that last beyond this implementation date and assure the existing</p>	<p>A change in the regulatory text is not necessary. The regulations are effective in 2022, allowing for ample time for planning for lack of capacity or infrastructure deficiencies. Currently, it is 2020 and jurisdictions have until 2022 to address any capacity deficiencies and if necessary, they can be placed on a Correction Action Plan that allows for an extended timeframe to come into compliance. The regulations allow up to three years to come in to compliance on a CAP (in total this is effectively equivalent to the request five years).</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>service provider that their proposal for SB 1383 implementation will not be tested competitively through an RFP. Given the exclusive nature of most franchise agreements and the penalties for non compliance, private service providers have tremendous leverage over ratepayers in this situation. We have already seen this unfold as we negotiate organics rates to comply with AB 1826; communities are often receiving proposals for stand alone organics rates at 200% 300% of the price of equivalent trash service, despite the fact there is no demonstrable basis for these multiples. In some cases, the service providers have told jurisdictions that they are unwilling to provide supporting documentation for how they arrive at those costs. By comparison, in competitive procurement processes or negotiations where the contract was not assured beyond the compliance date, we have been very successful negotiating agreements in good faith. HF&H supports the goals of SB 1383 and we respect that CalRecycle cannot forgive implementation requirements solely on the basis that agencies do not want to increase rates. However, as a public agency, CalRecycle has a responsibility to ensure that these regulations do not write a ""blank check"" to the private sector providers of these services. HF&H recommends that CalRecycle provide a mechanism to mitigate the ability of private service providers to take advantage of jurisdictions seeking to comply with the regulations in good faith. While there is no perfect solution to this dilemma, we have a few potential mitigation options:</p> <ol style="list-style-type: none"> 1. Require private service providers to supply local jurisdictions with any supporting documentation, including all information about current costs of service and operations in their community, during any inducement into a public contract. 2. Create a process for jurisdictions to appeal to CalRecycle or an independent third party to review and make determinations about whether rates are reasonable or reflect excessive profit generation. In cases where they do, jurisdictions should be: 1) permitted to terminate their agreements, subject to certain notice, without penalty; 2) granted a two year compliance waiver, specific to the compliance elements that are subject to the scope of the franchise agreement; and/or, 3) required to take those responsibilities in house with the jurisdiction or competitively solicit proposals for the required services. 3. CalRecycle could regulate the renegotiation process and determine what is considered an appropriate and reasonable rate. CalRecycle may consider modeling this regulatory process after the CPUC rate regulation process for water and energy utilities. 	
9146	Hilton, R., HF&H Consultants	<p>This section appears to prohibit a local agency from reserving available capacity at a facility for generators in that jurisdiction. If a local agency provides the funding and/or assurance of material flow that enables the development of organics processing infrastructure, that agency should have the ability to reserve that infrastructure for the benefit of its constituents and/or ratepayers. Private sector developers of processing infrastructure will limit access to their capacity based on a</p>	<p>A change to the regulatory text is not necessary. Section 189901 (c) (4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery. Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>number of self interested business decisions, the most obvious of which is to create competitive advantage. In order to effectively stimulate both private and public investment into the necessary infrastructure, it is critical that the public sector not be saddled with any more competitive disadvantages than already exist. Additionally, if a local agency acts as a host for an organics processing facility and accepts negative impacts associated with hosting such a processing facility, it seems reasonable that the agency should be entitled to establish "host mitigation fees" on materials originating outside that jurisdiction. These arrangements are often made through conditional use permits, which may be interpreted as "policies". These sorts of fees are common in the solid waste industry in California and may incentivize jurisdictions to invest in building new organics processing facilities. HF&H recommends eliminating or clarifying the provisions of this subsection to ensure equitable and consistent requirements for publicly owned facilities. HF&H would particularly like to see the ability for jurisdictions to reserve ongoing capacity for facilities partially or fully funded by the jurisdiction.</p>	<p>from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law. Nothing in the regulatory text would limit the application of appropriate standards to imported waste. Section 18990.1(c)(1) provides that this section does not require a solid waste facility or operation to accept organic waste that does not meet the quality standards established by the solid waste facility or operation.</p>
9147	Hilton, R., HF&H Consultants	<p>CalRecycle has frequently described these regulations as a shared responsibility between a number of stakeholders in the solid waste management system in California. Local agencies have been encouraged by the promise of this transition from a jurisdiction focused compliance program to one where all of the stakeholders are accountable. Unfortunately, Article 13 and several other reporting and record keeping subsections of the agreement appear to revert to a jurisdiction focused compliance program, ultimately requiring each jurisdiction to gather and report data to CalRecycle and placing nearly all of the penalties on local agencies for failure to comply. Given the cross jurisdictional nature of hauling and processing facilities, it is easy and very common for private providers to play "shell games" with diversion, reporting the same diversion to multiple agencies. HF&H requests that CalRecycle establish a direct reporting requirement to CalRecycle for haulers and processors, including but not limited to specifying data by jurisdiction and material type and balancing inputs and outputs. Unlike AB 901, we request that all data submitted through this process be fully transparent to the public, or at least to the jurisdiction(s) that are the subject of the reports. CalRecycle should then utilize these reports to reconcile the data provided by the jurisdictions. Furthermore, we recommend that the current requirements on jurisdictions be placed directly on haulers and processors (public or private) for contamination monitoring, outreach, and recordkeeping/reporting. We believe this approach will better align with the ""shared responsibility"" intention of SB 1383 and may result in more actual organics diversion rather than reported diversion.</p>	<p>A change to the regulatory text is not necessary. The Department will not be implementing a reporting requirement for haulers other than what is already required under AB 901. SB 1383 allows jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and specifies jurisdictions oversee the day-to-day compliance of entities (generators and haulers) under their authority and requires the Department to oversee the jurisdiction's compliance with the regulatory requirements.</p>
9148	Hilton, R., HF&H Consultants	<p>""Route review"" is defined as ""a visual inspection of containers along a hauler route for the purpose of determining container contamination and may include mechanical inspection methods such as the use of cameras."" While the regulations</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>require route reviews to be conducted on randomly selected containers so that all collection routes are reviewed quarterly, no minimum quantity of container inspections per route is specified. This may result in haulers or jurisdictions inspecting minimal containers during route reviews. Another concern is an inconsistent interpretation or application of the minimum standards by Local Enforcement Agents. HF&H recommends that CalRecycle amend this definition or the corresponding container contamination section (18984.5) to specify a minimum percentage of containers or number of customers along the route to be inspected. This approach will allow for a consistent application of the regulations across jurisdictions and ensure that the intent of this section is realized.</p>	<p>on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction.</p>
9149	Hilton, R., HF&H Consultants	<p>This section details organic waste dispositions that constitute a reduction of landfill disposal, but it does not include edible food recovered for human consumption. HF&H suggests amending this section to include edible food recovered for human consumption as a reduction of landfill disposal.</p>	<p>CalRecycle appreciates the desire to include recovered edible food in Section 18983.1(b), but this section specifically addresses organic waste. "Edible Food" is not an organic waste. As defined in Section 18983(a)(18) "edible food" is not solid waste if it is recovered and not discarded.</p>
9150	Hilton, R., HF&H Consultants	<p>This section describes the requirement to identify the amount of capacity at edible food recovery organizations that is needed to recover 20% of edible food that is estimated to be disposed. However, it is unclear how the 20% is to be quantified. HF&H suggests that CalRecycle consider and clarify the following questions: 1. Is this 20% of the edible food that the Tier 1/2 generators are estimated to dispose or 20% of all commercial edible food estimated to be disposed? 2. Does the 20% include residential edible food estimated to be disposed? 3. Can CalRecycle provide benchmarks for total edible food recovery volumes and volumes by type of business?</p>	<p>SB 1383's baseline for currently disposed edible food has not yet been established. CalRecycle's 2018 disposal-based and generator-based waste characterization studies sorted food waste into eight separate categories. The data collected from these studies will be used to help inform how CalRecycle measures the edible food baseline for SB 1383.</p> <p>Also, CalRecycle does intend on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of the edible food recovery capacity planning section.</p>
9151	Hilton, R., HF&H Consultants	<p>This subsection allows jurisdictions to waive organics program requirements due to physical space limitations. While it seems appropriate and necessary to allow for some limited space waivers, those waivers could potentially exempt a significant number of generators in older buildings and in urban areas where parking and rentable space are highly valuable. In addition, in non exclusive service areas, the ability of the hauler to sign off on the space accommodation waiver may create unintended consequences that allow haulers to sign off on those waivers to undercut competition, and/or avoid providing recycling service. HF&H recommends that CalRecycle clarify what constitutes "'evidence demonstrating a lack of adequate space.'" Implementing standards, a process for allowing potential waivers for space constraints, or minimum documentation standards will encourage a consistent application of this section across jurisdictions, as opposed to leaving interpretation up to the Local Enforcement Agents.</p>	<p>Since it is a jurisdiction provided waiver, a jurisdiction can set more stringent criteria in administering the physical space waiver. CalRecycle rejects the assumption that a significant number of generators could demonstrate legitimate physical space constraints. According to jurisdictions with similar space constraints waivers, very few businesses can demonstrate the existences of space constraints that cannot be addressed. There are few instances where a business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers are downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). This waiver intends to allow flexibility for businesses with legitimate and cost-prohibitive space constraints without compromising the state's ability to achieve the organic waste reduction targets.</p> <p>In regards to levying fees jurisdictions should consult their city our county counsel on how to appropriately structure fees.</p> <p>CalRecycle has not included implementation standards or minimum documentation requirements to allow jurisdictions set appropriate criteria. Jurisdictions, not haulers, administer the waiver, so the physical space waiver will not result in a race to the bottom in nonexclusive service areas. A hauler, licensed architect, engineer, or similarly qualify source may provide evidence that a premise has a legitimate space constraint. If a jurisdiction has concerns about haulers in</p>

Comment Number	Received From	Question/Comment	Response(s)
			nonexclusive service areas, they can opt not to issue waivers or use a qualified source other than a hauler to demonstrate lack of adequate space for separate organic waste containers.
9152	Hilton, R., HF&H Consultants	This section requires that each jurisdiction develop a list of edible food recovery services and organizations operating within each jurisdiction and post the information on their website. It seems that many food recovery service providers and organizations work across jurisdictional boundaries including across county boundaries. There may be a significant amount of duplication of effort and dozens of inquiries to the food recovery services and organizations (who are typically shortstaffed, understaffed, or run by volunteers). HF&H recommends that CalRecycle consider establishing a State wide database similar to FACIT where food recovery service providers and organizations can register and provide their information once for access to all jurisdictions and generators. This would also allow for a comparable level of information to be requested and provided in these lists (such as what type of food will and will not be accepted). Alternatively, CalRecycle may want to consider establishing the generation of the list as a county requirement with the posting of the county produced list on a jurisdiction's website as a jurisdictional requirement.	<p>Although CalRecycle intends to provide tools and resources prior to 2022 to assist with SB 1383 edible food recovery regulatory compliance, it is critical that jurisdictions develop their own lists of food recovery organizations and services operating in their area.</p> <p>Developing a list that includes food recovery organizations and services that have sufficient capacity and a proven track record of safely and efficiently recovering food for human consumption will help jurisdictions assess their edible food recovery capacity and identify capacity needs that exist. In addition, developing local lists will help commercial edible food generators find organizations and services that are capable of safely handling and distributing recovered food on a regular basis in their area.</p> <p>The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping to feed people in need.</p>
9153	Hilton, R., HF&H Consultants	The requirement for food recovery organizations and services to collect and maintain records is an important way to verify donation records submitted by generators. However, it should be recognized that this reporting requirement places an increased burden on food recovery organizations and services, many of which are under staffed, volunteer run, and/or operating on donations. While it appears that the intent of the six ton minimum is to target larger food recovery organizations and services, it is important to note that small food recovery organizations fall into this category as well as they are typically able to recover more than six tons of edible food per year. HF&H recommends that CalRecycle consider increasing the six ton threshold for reporting requirements. This reporting information could also be integrated into State wide database of information similar to FACIT, as suggested above. Additionally, HF&H recommends CalRecycle provide funding to support these organizations' food recovery services.	<p>The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold from the regulatory text. The final regulations 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.</p> <p>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 the 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% edible food recovery goal. 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. Regarding the comment, "HF&H recommends CalRecycle provide funding to support these organizations food recovery services." CalRecycle has awarded 20 million dollars to over 60</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>grantees through its Food Waste Prevention and Rescue Grant Program to fund food recovery organizations, food recovery services, and food waste prevention projects in California. Regarding the comment about creating a statewide reporting database, a change to the regulatory text was not necessary. Requiring regulated food recovery services and organizations to report directly to the state rather than to jurisdictions, would severely reduce each jurisdiction's ability to assess the effectiveness of their food recovery program and identify if improvements need to be made. Furthermore, the data that is reported directly to the jurisdiction is critical for helping the jurisdiction better understand the food recovery organizations and services making the greatest impact in their jurisdiction. This data can be used to help jurisdictions make decisions about food recovery organizations and services to promote and potentially direct funding to.</p>
9154	Hilton, R., HF&H Consultants	<p>This section requires edible food generators to maintain copies of contracts, written agreements, and other documents between the generator and the contracted food recovery organizations. However, many food recovery organizations serve a significant number of different food generators, including one time donors, and typically do not operate under contracts. The time to write, review, and mutually approve these contracts places an increased burden on food recovery organizations as well as generators; this burden may be magnified considering the time sensitive nature of recovering perishable edible food.</p> <p>HF&H requests that CalRecycle clarify what documents comply with these requirements, and provide guidance for food recovery organizations and services on this contracting process. Additionally, the tonnage minimum for food recovery reporting requirements described in Section 18991.5(a) could also be used to specify which organizations are required to operate using formal contracts.</p>	<p>A change to the regulatory text was not necessary for the following reasons. First, having a contract or written agreement with supporting documentation of the contract or written agreement is critical for enforcement purposes and to ensure that edible food is recovered in a safe, professional, and reliable manner. Contracts and written agreements add a layer of food safety, professionalism, and reliability into food recovery and also can serve as a mechanism to help to protect food recovery organizations and food recovery services from donation dumping. CalRecycle and HF&H developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, commercial edible food generators, and jurisdictions. The model food recovery agreement is only a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators. Second, no commercial edible food generators will be one-time donors. If they only donate once, then they will very likely not be in compliance with SB 1383's edible food recovery regulations. In addition, commercial edible food generators should not be infrequent donors because these industry groups typically have large amounts of recoverable edible food that they otherwise would dispose.</p>
9155	Hilton, R., HF&H Consultants	<p>This article will require a significant expenditure by jurisdictions throughout California to staff the enforcement efforts, including but not limited to: route reviews, compliance reviews, contamination monitoring, follow up site visits, and the issuing of fines. Some agencies will choose to hire staff or incorporate these responsibilities into the work performed by existing code enforcement officers and/or health inspectors. In some agencies, there may not be a sufficient workload created by these requirements to justify a full time position. In other agencies, there may be political objections to funding staff positions for this type of enforcement when other critical public health and safety matters are under enforced. During the enforcement workshop, CalRecycle suggested the potential for CalRecycle to perform the enforcement on behalf of agencies, similar to how agencies can arrange for CalRecycle to be the Local Enforcement Agency for regulating solid waste facilities.</p> <p>HF&H recommends that CalRecycle provide an option for jurisdictions to contract with CalRecycle to perform the inspection and enforcement procedures.</p>	<p>A change to the regulatory text is not necessary. CalRecycle will not be contracting with jurisdictions to perform inspection and enforcement actions. There are insufficient resources at the state level to contract out for jurisdictions.</p>

Comment Number	Received From	Question/Comment	Response(s)
9156	Hilton, R., HF&H Consultants	<p>Base Table 1. Section 18984.5(b) This section of the table states that a fine may be issued if a jurisdiction fails to conduct route reviews on randomly selected containers for at least one collection route on each collection day. However, Section 18984.5 does not specify this requirement; they are only required to inspect randomly such that all routes are inspected quarterly.</p> <p>HF&H recommends that CalRecycle update the base table to match the requirements outlined in Section 18984.5.</p>	<p>CalRecycle has revised sections 18984.5 and 18997.3 in response to comments. Section 18984.5 has been changed to reflect that a jurisdiction shall conduct a route review for prohibited container contaminants that results in all hauler routes being reviewed annually, instead of quarterly. The penalty tables in Section 18997.3 were removed and replaced with a new penalty structure.</p>
9157	Hilton, R., HF&H Consultants	<p>Section 18982 – Article 9 Section 18990.2(c)(2) references “a person, gleaner, or food facility,” but no definition of “gleaner” is provided in Article 1 Section 18982. HF&H recommends including a definition of the word “gleaner” as defined by AB 1219 The California Good Samaritan Food Donation Act: “Gleaner” means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.”</p>	<p>The term “gleaner” is used when referencing the Health and Safety Code in Article 9 Section 18990.2(c)(2). One commenter recommended that a definition for the term “gleaner” should be included in the regulations. A definition for “gleaner” was not added because regulatory provision is references Section 114432 of the Health and Safety Code. Section 114432 of the Health and Safety Code provides the definition of “gleaner.”</p>
9158	Hilton, R., HF&H Consultants	<p>The regulations seem to require jurisdictions to have some accountability for collection and landfill disposal reduction of organic textiles and carpets; although it is not clear to what extent. This does not seem practical for several reasons such as the difficulty in differentiating between organic and non organic textile and carpet and the limitations of single, two , and three container collection programs to collect and process these materials.</p> <p>Given that these materials are traditionally handled outside the single, two, and threecontainer collection programs, that the carpet CARE program is addressing carpet recycling statewide, and many thrift organizations are handling textiles, HF&H recommends that the regulations exclude these materials from the definition of organics for the purposes of establishing program requirements for residents, businesses, and jurisdictions.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Textiles and carpets are not normally accepted by organic waste recycling facilities such as composting or in-vessel facility that takes materials in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.</p>
9159	Hilton, R., HF&H Consultants	<p>This section describes prohibited container contaminants as a zero tolerance definition. This becomes costly for jurisdictions or their designees to tag, notice, document, and report when conducting container inspections.</p> <p>HF&H request that CalRecycle please consider providing some allowance for minimal or insignificant levels of prohibited container contaminants in order to minimize costs and increase compliance for jurisdictions.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
9160	Hilton, R., HF&H Consultants	Some local programs allow for textiles to be collected with blue container materials. HF&H recommends modifying the regulations to allow for textiles to be placed with blue container materials if the textiles are separated for the purposes of diversion.	Sections 18984.1 and 18984.2 specifically state that textiles are allowed in the blue container.
9161	Hilton, R., HF&H Consultants	HF&H recommends that textiles be included as a prohibited container contaminant in green containers as most organics facilities do not accept textiles for processing.	Textiles and carpets are not normally accepted by organic waste recycling facilities such as composting or in-vessel facility that takes materials in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.
9162	Hilton, R., HF&H Consultants	This language requires wood and dry lumber to be placed in the Blue Cart. HF&H suggests allowing for wood and dry lumber to be placed in the blue or green containers based on the jurisdiction's processing programs.	<p>CalRecycle agrees with the comment that allowing for wood and dry lumber to be placed in the blue or green containers should be based on the jurisdictions processing programs. The regulations already allow organic waste, which can include non-hazardous wood and dry lumber, to be included in the green container. The regulations also already allow for non-hazardous wood and dry lumber to be included in the blue container.</p> <p>Regarding treated hazardous wood waste, CalRecycle revised Section 18984.1 to add a new subsection indicating that this material should not be allowed in the blue container.</p>
9163	Hilton, R., HF&H Consultants	If it is correct to interpret that the regulations require that materials collected in blue containers be delivered to high diversion organic waste facilities, this seems to be an unrealistic requirement for all recyclable materials.	Blue containers do not need to be transported to high diversion organic waste processing facilities.

Comment Number	Received From	Question/Comment	Response(s)
		HF&H requests that CalRecycle clarify if the regulations allow for recyclable materials collected in the blue carts to be delivered to a transfer/processing facility provided that the materials are processed for 50% and then 75% recovery of the organic portion (e.g., papers are targeted for recovery).	
9164	Hilton, R., HF&H Consultants	HF&H requests that CalRecycle clarify if chipping and grinding activities are considered allowable landfill reduction activities, and if so, please amend this section to include this.	Chipping and Grinding activities are included as a reduction of landfill disposal per section 18983.1(b) of these regulations. Subdivision (b)(2) specifies that organic waste sent to a Compostable Material Handling Operation or Facility as defined in Section 17852(a)(12) is a reduction of landfill disposal. Section 17852(a)(12) is defined to included chipping and grinding operations and facilities.
9165	Hilton, R., HF&H Consultants	This section states that carpets, non compostable paper, and hazardous wood waste are prohibited from being placed in the green container. Currently the CDCFA restricts movement of certain organics within quarantine zones. This is addressed elsewhere in the proposed regulation text for non local entities and at the facility level when measuring organic recovery rates, but not at the point of collection. HF&H Recommends that CalRecycle amend the list of prohibited materials to include ""material subject to a quarantine on movement issued by a county agricultural commissioner."" Alternatively, the definition of organic waste in Section 18982(a)(46) could be amended to state ""material subject to a quarantine on movement issued by a county agricultural commissioner is considered incompatible materials rather than organic waste."	Thank you for the comment. CalRecycle revised Section 18984.13 regarding quarantine. These materials may be disposed without counting against a jurisdiction as they comprise a minimal portion of the organic waste stream and/or are uniquely difficult or problematic to recover from a health and safety perspective. Also, the measurement standards in Section 18984.5 that apply to performance-based source separated organic waste collection systems was amended to state: "For the purposes of demonstrating compliance with 18998.1, organic waste that is textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a county agricultural commissioner, is not required to be measured as organic waste."
9166	Hilton, R., HF&H Consultants	Section 18984.1(a)(1) This section states that green containers will be provided for the collection of organic waste. For jurisdictions where organics service is not currently provided or where customers provide their own containers, this would incur significant costs. HF&H requests that CalRecycle consider and clarify the following questions: Can jurisdictions allow for use of customer provided containers for collection rather than be required to provide containers? Can bags be used for collection of yard trimmings, pine needles, and pine cones? If generators can use their own containers, do the containers need to meet the color and labeling requirements? Can generators use bags?	No, container colors and requirements are standardized and required to be provided by the jurisdiction. CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.
9167	Hilton, R., HF&H Consultants	This section states that textiles, carpets, plastic coated paper, and human or pet waste may not be collected in the blue container for non local entities. This requirement appears to be incongruent with the requirements placed on local entities. HF&H recommends that CalRecycle amend the definition to align with the requirements placed on jurisdictions in Sections 18984.1 and 18984.2.	Thank you for the comment. CalRecycle amended the applicable sections for consistency.

Comment Number	Received From	Question/Comment	Response(s)
9168	Hilton, R., HF&H Consultants	HF&H requests that the regulations specify the minimum frequency of collection for blue containers. Is every other week acceptable to reduce costs to rate payers?	A change to the regulatory text is not necessary because every other week collection for blue containers is already allowed and many jurisdictions already offer this as part of their program.
9169	Hilton, R., HF&H Consultants	<p>This section requires that containers at the end of their useful life are replaced with SB 1383 color compliant containers. This may lead to conflicts with current color schemes, or at a minimum may lead to containers of inconsistent colors throughout a jurisdiction. Inconsistent coloring dispersed throughout jurisdiction makes education and outreach a challenge as customers with different colored containers will require different messaging. Furthermore, this approach does not consider current container inventories that have already been procured to replace containers at the end of their useful life.</p> <p>HF&H recommends that CalRecycle eliminate the need to replace containers at the end of their useful life with SB 1383 color compliant containers, and instead mandate that all containers comply with the color requirements described above by 2032. This will allow jurisdictions to utilize current container inventories and allow for a uniform replacement of new containers and messaging throughout the jurisdiction.</p>	<p>The regulations provide that a jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>A change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time. Jurisdictions may also use inventory that was purchased prior to 2022.</p>
9170	Hilton, R., HF&H Consultants	<p>Jurisdictions with high elevation areas face unique challenges in meeting SB1383's requirements. The necessary use of bear boxes presents significant capacity and siting issues for bins in this area. This limitation is exacerbated by winter snow conditions that create access and space challenges for bins.</p> <p>HF&H suggests including a 5,000 foot elevation exemption in this section in order to address the specific environmental needs of high elevation communities.</p>	<p>CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826.</p> <p>As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes.</p> <p>Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. This comment argued that the limited space of locked bear boxes, which this commenter's jurisdiction uses to secure garbage bins, creates a capacity issue. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, nothing prevents the jurisdiction from providing smaller containers that could fit inside bear boxes.</p>
9171	Hilton, R., HF&H Consultants	<p>If containers need to be replaced at the end of their useful life to meet the prescribed color scheme, a jurisdiction could have a variety of colors in service as some containers will fail and be replaced before other containers. This will be confusing for customers and will make jurisdictions' education efforts challenging. Furthermore, haulers have invested in container inventories of existing containers and it will benefit the rate payers to deplete these inventories before rolling out new colors.</p> <p>HF&H request that Cal Recycle amend this section to state that the jurisdiction is not required to replace functional containers "until such time the jurisdiction, or its designee, distributes new containers to all customers in the jurisdiction, or before January 1, 2032, whichever occurs first?"</p>	<p>Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036.</p>
9172	Hilton, R., HF&H Consultants	<p>In some communities, customers provide their own containers, and distributing new containers will be costly. HF&H requests that CalRecycle clarify if the regulations allow for continued use of customer provided containers.</p>	<p>Jurisdictions are required to provide customer's containers; however, the regulations allow for a phasing in by Jan. 1, 2036. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>goals. Furthermore, the regulations provide that jurisdictions do not have to replace functional containers to comply with color requirements for any containers purchased prior to January 1, 2022, until 2036. Considering that the regulations will be adopted in 2019 and do not go into effect until 2022, jurisdictions will have 17 years advance notice of the color requirements which is plenty of time to arrange for appropriate color-compliant containers. The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery. See statement of purpose and necessity for Article 3 and for Section 18984.1 -18984.7. Article 1, Section 18981.2 allows for jurisdictions to designate responsibility for providing containers to its hauler.</p>
9173	Hilton, R., HF&H Consultants	<p>This section appears to be focused on multi family and commercial property owners. HF&H requests that the regulation states that property owners of single family residential premises are excluded.</p>	<p>CalRecycle revised Section 18984.10 in response to this comment to clarify that requirements on commercial business owners do not pertain to single family residences. Also note, in the current language, CalRecycle removed 'property owners' from this section.</p>
9174	Hilton, R., HF&H Consultants	<p>Many jurisdictions allow residents and businesses conducting on site composting to opt out of organics collection services. A similar waiver could be included in the regulations. HF&H suggests amending the collection frequency waiver to also allow a jurisdiction to apply for the waiver for all or some of its service area and not have to administer individual collection frequency waivers for each customer. This is particularly important in terms of managing cost impacts for rate payers.</p>	<p>The regulatory language is written generally enough to provide some discretion in how a jurisdiction would implement collection frequency waivers and could consider a method of doing this by service area rather than by an individual generator request.</p>
9175	Hilton, R., HF&H Consultants	<p>China's National Sword has presented difficult market conditions for paper. HF&H asks if any waivers can be provided to address lack of markets?</p>	<p>The regulations allow for a corrective action plan where there are circumstances outside of a jurisdiction's control and when the jurisdiction has demonstrated substantial effort.</p>
9176	Hilton, R., HF&H Consultants	<p>This section requires public education materials in various languages if more than 5% of the jurisdiction's population is identified as a "limited English speaking household," or as "linguistically isolated" by the U.S Census Bureau. This can be burdensome particularly if a community has several different languages spoken among its population. HF&H recommends that CalRecycle consider increasing the percentage threshold to reduce the cost associated with preparation of public education materials in multiple languages, and/or allow for the compliance to be accomplished with a short statement (in the applicable language) that directs the non English speaking person to the jurisdiction's website for materials in other languages, or allows for graphic rich public education materials as a possible substitute.</p>	<p>Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.</p>

Comment Number	Received From	Question/Comment	Response(s)
9177	Hilton, R., HF&H Consultants	HF&H recommends that the edible food recovery education requirements be phased in with a focus on Tier One by February 1, 2022 and then Tier Two by February 1, 2024.	The regulations are structured so that tier two commercial edible food generators have an additional two years to prepare for compliance. They have been given an additional two years to prepare because many tier two generators do not have existing food donation practices in place, and they often have hot prepared foods to donate, which can be more challenging to recover than other types of non-prepared foods. These generators need to be educated early so that they are aware of their requirements, and so that they have ample time to prepare for compliance. Receiving education early is critical for helping ensure a higher rate of compliance among tier two commercial edible food generators, and therefore critical for helping California achieve its 20% edible food recovery goal. For these reasons, tier two commercial edible food generators must receive education at the same time as the tier one commercial edible food generators.
9178	Hilton, R., HF&H Consultants	In order to maintain consistency with Section 18988.3(b)(5), HF&H suggests amending this statement to exclude any requirements for self hauler and back hauling related to single family generators.	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.
9179	Hilton, R., HF&H Consultants	This section requires that counties, in coordination with their cities, estimate the amount of organics disposed, the amount of verifiably available organics recovery capacity, and the estimated additional capacity needed to comply with state goals, through consultation with the Local Enforcement Agency, the local task force, haulers, facility operators and owners, and community composting facilities. The completeness and accuracy of the data collection is entirely dependent upon the cooperation of and provision of data by the facilities in question. All too often, processing facilities provide incomplete information in response to capacity studies or simply decline to participate at all. If CalRecycle intends to require that public agencies conduct the process described herein, it seems reasonable to require participation and provision of accurate information by the facility operators. While this subsection requires that entities contacted respond to the jurisdictions request, there are no mandatory timeframes or prescribed penalties for their inability or unwillingness to comply. HF&H recommends establishing a timeframe in which entities must reply to jurisdictions, as well as an enforcement mechanism (perhaps an addition to Article 16). Ideally, CalRecycle would handle the enforcement of this since many	Thank you for the comment. Article 11 was revised to specify a timeframe in which entities must reply to jurisdictions. CalRecycle may consider enforcement of these timeframes.

Comment Number	Received From	Question/Comment	Response(s)
		jurisdictions may be seeking information and capacity outside of their jurisdiction, which impacts their ability to legally enforce any fines levied.	
9180	Hilton, R., HF&H Consultants	In preparing edible food recovery capacity estimates described here, jurisdictions will need data on the percentage of food waste disposed that is edible food. HF&H asks CalRecycle to clarify if they can provide a benchmark for this edible food disposal percentage.	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
9181	Hilton, R., HF&H Consultants	The provisions of this section require that jurisdictions procure a minimum amount of recycled organic waste products (compost and renewable transportation fuel) annually, or contract with direct service providers to procure these materials. HF&H believes that the requirement to procure recycled organic waste products is limited in scope as to the types of products that may be procured. HF&H recommends that CalRecycle add ground cover, mulch, soil amendments, and an allowance for additional recycled organic waste products (as approved by CalRecycle) to account for future technological and product developments. Soil amendments are considered a reduction in landfill disposal per Section 18983.1(b)(5) and therefore should also be an acceptable form of recovered organic waste for procurement to close the loop. Furthermore, it would be beneficial for CalRecycle to post a list of approved recycled organic waste products on their website so that other jurisdictions are aware of additional procurement opportunities. Additionally, it may be useful for CalRecycle to have a vendor web portal that allows jurisdictions to procure recovered organic waste products from other jurisdictions or companies who output more products than they can currently utilize.	Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. Regarding soil amendments and adding an option for approval of “future technological and product developments”, CalRecycle disagrees due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of “soil amendments” and “future technological and product development” raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. CalRecycle has also added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. If soil amendments meet that criteria, they may be considered compost. Regarding posting a list of approved products, once the regulations are finalized CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products.
9182	Hilton, R., HF&H Consultants	This section details the requirement for an initial compliance report on February 1, 2022 and then a first annual report on August 1, 2022, including data through June 30, 2022. It is unrealistic for jurisdictions to be able to receive the necessary hauler reports with June data in order to compile this information in time for an August 1 submittal. HF&H requests that CalRecycle please reconsider and modify these dates in order to provide a more realistic timeline for submission of high quality and accurate reports	A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
9183	Hilton, R., HF&H Consultants	This section states that compliance reviews and route reviews shall be conducted to ensure compliance with the generator requirements outlined in Section 18984.9. It	CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the

Comment Number	Received From	Question/Comment	Response(s)
		<p>appears that this section is requiring the compliance reviews and route review to entail more than what the definition of these terms require in Sections 18982(a)(9) and 18982(a)(65). Under Section 18984.9(b) it states that commercial businesses shall periodically inspect organic waste containers for contamination and inform employees if containers are contaminated. It is unrealistic to expect that a jurisdictions designee will be monitoring communication between businesses and their employees.</p> <p>HF&H recommends that Section 18995.1(a)(1)(A) be amended to require that compliance reviews and route reviews ensure compliance with the generator requirements set forth in Section 18984.9(a). This will align the requirements of Section 18995.1(a)(1)(A) with the definitions specified in Article 1.</p>	<p>organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
9184	Hilton, R., HF&H Consultants	<p>If the intent of this section is a desktop compliance review, then compliance with Section 18984.9(b) cannot be verified because Section 18984.9(b) will require site visits and inspection of internal operations of businesses.</p> <p>HF&H recommends that the language be modified to exclude annual review of compliance with Section 18984.9(b).</p>	<p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
9185	Hilton, R., HF&H Consultants	<p>HF&H requests that CalRecycle specify the proposed frequency of the compliance evaluation.</p>	<p>A change to the regulatory text is not necessary. Section 18996.1 does not set the frequency of compliance audits, yet the Department will notify the jurisdiction prior to conducting an evaluation.</p>
9186	Hilton, R., HF&H Consultants	<p>HF&H requests that CalRecycle please clarify which reporting period(s) is to be included in this section.</p>	<p>CalRecycle has revised section 18995.2(d) in response to comments. The section was changed to clarify that all records and information shall be included in the Implementation Record within 60 days and the reference to the reporting period(s) is deleted.</p>
9187	Hilton, R., HF&H Consultants	<p>The 1st, 2nd, and 3rd violations layered with Level 1 through 6 penalty levels may be overly complex for this purpose.</p> <p>HF&H suggests simplifying these violation tables and penalty levels to eliminate some of this complexity and possible confusion.</p>	<p>CalRecycle has revised sections 18997.2 and 18997.3 due to comments. The penalty tables have been removed. A jurisdiction shall impose penalties for violations consistent with the graduated penalty amounts authorized in Sections 53069.4, 25132 and 36900 of the Government Code which is outlined in Section 18997.2(a). The Department will impose penalties as described in 18997.3 according to a minor/moderate/major model as modified by various factors in that section to allow flexibility on a case-by-case basis as equity may require.</p>
9188	Hilton, R., HF&H Consultants	<p>For source separated organic materials that go to a transfer station and a composting facility, HF&H requests that CalRecycle please clarify and confirm whether or not load checking is required at both.</p>	<p>CalRecycle has deleted the loadchecking requirements for source separated organic materials and at composting facilities and operations in response to comments.</p>
9189	Hilton, R., HF&H Consultants	<p>17409.5.7 This section sets the load checking requirement at ""visible"" contamination. This is likely to result in nearly all samples being flagged for load checking, which will be time consuming and costly.</p> <p>HF&H requests that CalRecycle consider setting a quantifiable threshold to manage the cost impact of the load checking requirements.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change</p>

Comment Number	Received From	Question/Comment	Response(s)
			will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
6347	Holler, D., Town of Mammoth Lakes	e are requesting that Cal Recycle incorporate additional applications within the regulations. This includes the use of dehydration. This technology is readily available and in use by private businesses as a means of recycling organic materials in a matter of hours allowing for regional solutions. Water is pulled from the material and can be put in the sanitary sewer or on a larger scale can be treated for other non-potable purposes. Overall, less water usage compared to Anaerobic Digestion, which requires 24/7 operation; another hurdle that curtails smaller community needs. Dehydration is a batched process and has no residue that requires landfilling.	CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO2e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.
6348	Holler, D., Town of Mammoth Lakes	The proposed regulations include the use of Biomass Conversion. The conversion process would be much stronger if these types of gasification processes are specifically included or clearly stated to be part of the currently allowed process such as pyrolysis as a gasification process. The process is used to manage biomass materials to generate biochar, an allowed soil amendment. Technologies used in other states incorporate the wide range of organics outlined in the regulations. These systems also process forest wood waste, contaminated paper and cardboard (can address the very low market values as well), non-recyclable paper and sewer sludge. Systems may also generate electricity based on available feedstock supply. Specifically, gasification technologies allow for more cost effective organic diversion, supports economical processing of forest fuels reducing the threat of wildfires, processes other green waste and additional organic materials, all of which assist in addressing climate change. The options outlined here will be more cost effective for rural communities like Mammoth Lakes. We have a vested interest in addressing each area noted herein based on location and economy. Technologies that we have reviewed are also under review to address the remains from anaerobic digestion, added costs and duplicative efforts to achieve the same goals. These systems eliminate the need for land application of AD digestates that do not promote healthy soil and after years of land applying will create an unhealthy "load" factor of these toxic materials in our soils. Other processes also appear to be more cost effective. The process is enclosed allowing for operations on a smaller foot print during winter months, which for Mammoth Lakes can be massive and severely limit normal solid waste collection and processing systems.	CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO2e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.
6349	Holler, D., Town of Mammoth Lakes	While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.	CalRecycle has noted the comment. The statutory language of SB 1383 establishes the dates upon which the regulations are required to be effective.

Comment Number	Received From	Question/Comment	Response(s)
		Adding technologies that can be supported by the private sector with limited or no additional "fees" to local residents and businesses must be considered. The technologies addressed above may be put in place at lower costs and achieve multiple complementary goals.	
6350	Holler, D., Town of Mammoth Lakes	The added cost of trash collection in smaller rural communities is an added strain on housing costs. Adding several hundred dollars to multi-unit developments for trash services has a direct impact on affordability. In a tourist driven economy with a substantial number of second home owners, residents, home owners and visitors in the Town of Mammoth Lakes will be paying twice for the same services with wide disparity of organics being generated due to our seasonal economy.	A change to the regulatory text is not necessary. The regulations will likely result in additional costs for ratepayers, but the City should be planning now for that increase.
6351	Holler, D., Town of Mammoth Lakes	This will be an added cost to the local agencies that will be passed on to our customers.	SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.
6352	Holler, D., Town of Mammoth Lakes	At a minimum, we would request that the process to implement pilot projects in rural communities be allowed, streamlined and focus on the use of expanded, integrated technologies. This will provide data, create flexible options, reduce costs, and create a positive incentive for communities currently exempt from the regulations to still be a part in meeting State goals for diversion of organic materials, while addressing number of other major State initiatives.	A change to the regulatory text is not necessary. Section 18984.12(c) provides more time for rural jurisdictions to come into compliance, so during that time jurisdictions could try pilot programs.
1038	Holloway, Paul Placer County LEA; Huang, Jianmin, Yolo County LEA	Proposed 14 CCR 21660.2(c)- This requirement places the LEA in jeopardy of legal challenges that the LEA failed to properly "identify disadvantaged communities in a manner that meets or exceeds the methods of the identification tools developed by the California Environmental Protection Agency". This should be removed from the regulatory text or revised.	<p>A change to the regulatory text is not necessary. The operable standard in this section is determining an appropriate meeting public meeting location, not the identification of disadvantaged communities. This provision is necessary so LEA's are aware of the tools available to them to identify potentially affected disadvantaged communities near solid waste facilities in order to meet the meeting location standard.</p> <p>CalRecycle has revised this section in response to comments. This section was revised to define the term "affected disadvantaged communities." This is necessary to clarify and assist the LEAs better identify who would be covered under this term so that they are notified and are provided an adequate opportunity to attend and provide comments on the project.</p>
1031	Holloway, Paul, Placer County Health and Human	Proposed 14 CCR 18083(c) - The requirement of the LEA or EA to oversee a minimum of one measurement of organic wastes is burdensome to the operators and the LEA's	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the

Comment Number	Received From	Question/Comment	Response(s)
	Services Department		operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1032	Holloway, Paul, Placer County Health and Human Services Department	In order to comply with 14 CCR 18083(b), an LEA would require an operator to provide a measurement in the LEA's presence. This could be a redundant action on the part of operators who may have already taken samples at an earlier time within the appropriate regulatory timeframes.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1036	Holloway, Paul, Placer County Health and Human Services Department	2) Proposed 14 CCR 20700.5- The proposed "Long-Term Intermediate Cover" requirement of 36 inches of compacted earthen material is a burden to sites which have limited soils present.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
1037	Holloway, Paul, Placer County Health and Human Services Department	Section 20700.5 The additional earthmoving equipment required to close and open these surfaces could increase greenhouse gas (GHG) emissions for these operations.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
1034	Holloway, Paul, Placer County Health and Human Services Department; Huang, Jianmin, Yolo County Department of County Services, Environmental Health Division	Proposed 14 CCR 18083(c) -Additional inspections could cost operators more money due to some LEA's billing for inspection time and would be increasing inspection time per quarter for the LEA.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1035	Holloway, Paul, Placer County Health and Human Services Department; Huang, Jianmin, Yolo County Department of County Services,	Proposed 14 CCR 18083(c) -This regulation language should be amended as follows or it should be stricken completely: " At least once per quarter, the The EA shall may oversee a minimum of one (1) measurement as described in ... "	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.

Comment Number	Received From	Question/Comment	Response(s)
	Environmental Health Division		
1033	Holloway, Paul, Placer County Health and Human Services Department; Huang, Jianmin, Yolo County Department of County Services, Environmental Health Division; Jahnke, Keith, Tulare County Health and Human Services Agency, Environmental Health Division	Proposed 14 CCR 18083(c) -To be accommodating, an LEA could request and schedule an inspection per quarter to coincide with the operators routine measurement activities. This would have to be a "focused" inspection since the process of scheduling would be in conflict with 14 CCR 18077(a)(12) which requires inspections be random and unannounced	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
6452	Hornback, California Assisted Living Association	Some residents, especially those with dementia or cognitive impairment, may find choosing between multiple waste bins confusing, or they may refuse to follow new requirements.	A change to the regulatory text is not necessary. CalRecycle recognizes the issues raised in Comments 6452-6455. Section 18984.5(b) does require businesses to educate employees and tenants, but it provides flexibility to design programs that work for their situation, for example by relying more on employees rather than residents to handle waste collection.
6453	Hornback, California Assisted Living Association	It would be difficult for Assisted Living staff to monitor what resident's visitors do with their waste in a resident's apartment.	A change to the regulatory text is not necessary. CalRecycle recognizes the issues raised in Comments 6452-6455. Section 18984.5(b) does require businesses to educate employees and tenants, but it provides flexibility to design programs that work for their situation, for example by relying more on employees rather than residents to handle waste collection.
6454	Hornback, California Assisted Living Association	Some communities may have space issues when trying to fit multiple waste bins in an apartment to accommodate different types of waste.	A change to the regulatory text is not necessary. CalRecycle recognizes the issues raised in Comments 6452-6455. Section 18984.5(b) does require businesses to educate employees and tenants, but it provides flexibility to design programs that work for their situation, for example by relying more on employees rather than residents to handle waste collection.
6455	Hornback, California Assisted Living Association	Assisted Living providers would appreciate flexibility in working to meet the requirements of SB 1383 as it applies to individual residents living in Assisted Living communities.	A change to the regulatory text is not necessary. CalRecycle recognizes the issues raised in Comments 6452-6455. Section 18984.5(b) does require businesses to educate employees and tenants, but it provides flexibility to design programs that work for their situation, for example by relying more on employees rather than residents to handle waste collection.
6026	Huang, C., Citizen and Community Organizer - Berkeley	Community engagement is the most powerful way to change behavior to lower contaminants and increase diversion	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.

Comment Number	Received From	Question/Comment	Response(s)
6027	Huang, C., Citizen and Community Organizer - Berkeley	Allowins of composting will not only reduce carbon footprint of our diversion and increase diversion, but it will also get people engaged to reduce contaminants.	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
1013	Huang, Jianmin, Yolo County Department of County Services, Environmental Health Division	Section 21660.2 (c)(1)(A) suggested revision for consideration: LEA suggests deferring this task to Calrecycle to ensure DACs be identified correctly and consistently throughout the state.	CalRecycle has revised this section in response to comments. This section was revised to define the term “affected disadvantaged communities.” This is necessary to clarify and assist the LEAs better identify who would be covered under this term so that they are notified and are provided an adequate opportunity to attend and provide comments on the project.
1011	Huang, Jianmin, Yolo County Department of County Services, Environmental Health Division; Sloan, Lisa, Santa Barbara County Public Health Department, Environmental Health Services	section 21660.2 (c) (a) Methodology used to identify Disadvantaged Communities (DACs) in Section 39111 of the Health and Safety Code is broad and vague. For example, the Section states that the DACs shall be identified based on geographic, socioeconomic, public health, and environmental hazard criteria. While it says that low income, high unemployment, low levels of homeownership, high rent burden etc. can be used as criteria, it does not define what the thresholds for those criteria are.	CalRecycle has revised this section in response to comments. This section was revised to define the term “affected disadvantaged communities.” This is necessary to clarify and assist the LEAs better identify who would be covered under this term so that they are notified and are provided an adequate opportunity to attend and provide comments on the project.
1012	Huang, Jianmin, Yolo County Department of County Services, Environmental Health Division; Sloan, Lisa, Santa Barbara County Public Health Department, Environmental Health Services	Section 21660.2 (c)(1)(A) LEA is not tasked to identify DACs in its current set of duties/responsibilities; therefore, LEA is not trained nor does it have the tools to make this determination.	CalRecycle has revised this section in response to comments. This section was revised to define the term “affected disadvantaged communities.” This is necessary to clarify and assist the LEAs better identify who would be covered under this term so that they are notified and are provided an adequate opportunity to attend and provide comments on the project. CalRecycle staff will develop tools to assist in the implementation of the regulations.
6362	Huffaker, M., City of Watsonville	Financial Burden: The cost to implement this new program is estimated to be nearly \$900,000 per year for our community. This represents a significant rate increase for an Economically Disadvantaged Community. We remain concerned about critical points that hinder our ability to implement the proposed regulation. The City of Watsonville has been implementing an organic waste diversion program for our larger generators since 2017. This organic program currently has 100 customers (we	Comment noted. Commenter is expressing an opinion regarding the cost of implementing the program. The comment is not suggesting changes to the regulatory language or commenting on the regulatory process.

Comment Number	Received From	Question/Comment	Response(s)
		<p>added an additional 60 customers in 2019), which require collection twice a week. With each organic customer, the City of Watsonville uses community outreach personnel to educate and inform them on diversion and an auditor to monitor the contamination of the waste stream.</p> <p>The implementation of the SB1383 regulation impacts the efficiency and financial budget of the City of Watsonville's solid waste program. To sustain the program, additional personnel are required to maintain effective community outreach and auditing of the customer waste streams. The City of Watsonville's collection fleet will require a modification to minimize leakage to the environment and to maintain service, the purchase of 2-trucks at \$400,000 each to handle organics collection for the city's 55,000 residents. 2,000 additional yellow carts, along with resident compost containers must be also ordered and dispersed to comply with the new regulation. This will impact the City of Watsonville budget by another \$50,000.</p>	
6363	Huffaker, M., City of Watsonville	<p>The City of Watsonville has very narrow streets to navigate the large collection trucks and is already currently impacted with lack of cart spacing to safely collect trash, yard waste and recycling. Adding another additional 2,000 carts on the present system will add to the operational impacts that already hinder safe collection on the street. Add the parked cars and there is increased environmental and safety risk for the collection vehicles.</p> <p>Along with the additional 2 trucks on the City of Watsonville streets, pollution from noise and fuel are increasing hazards to the community. Consulting costs to gain compliance which includes waste characterization of the city's recycling and solid waste has added \$150,000 to the financial burden.</p>	Comment noted. The commenter is expressing an opinion regarding cost and difficulties in implementation. The comment is not suggesting changes to the regulatory language or commenting on the regulatory process.
6364	Huffaker, M., City of Watsonville	<p>Other Key Concerns: The City of Watsonville key concerns are as follows: Printing and dispersing of SB1383 educational material for outreach, equipment required to sustain organic handling, spacing/placement of carts and containers in the street, consulting fees, variety of disposal facilities and economical disposal options, and cost controls of the overall SB1383 program.</p>	Comment noted. The commenter is expressing an opinion regarding cost and difficulties in implementation. The comment is not suggesting changes to the regulatory language or commenting on the regulatory process.
5100	Ignatius, A. San Bernardino County Dept. of Public Works	<p>Section 18982(a)(36). The definition of a "jurisdiction" was revised to include a special district that provides solid waste handling services. Clarify if this will require Community Service Districts that have solid waste authority to report compliance efforts directly to CalRecycle.</p>	A community services district is a special district and special districts are jurisdictions that are subject to the proposed regulations.
5101	Ignatius, A. San Bernardino County Dept. of Public Works	<p>Section 18984.5(c)(1). This requirement would be labor intensive and expensive for jurisdictions while having only a limited ability to identify the original source of contamination since the containers would be inspected after the contaminated containers were already collected. Additionally, there is a concern that some solid waste facility operators may be a subsidiary company of the jurisdiction's waste hauler and may not be inclined to inform the jurisdiction of prohibited container contaminants as it may create additional work for the waste hauler that may be conducting the container inspections as designated by the jurisdiction.</p>	

Comment Number	Received From	Question/Comment	Response(s)
5102	Ignatius, A. San Bernardino County Dept. of Public Works	Section 18984.12(b). Since census tract data is published every 10 years, it is unclear why low population waivers granted to counties are only good for a period of two years. It is suggested that the regulations stipulate that low population waivers granted to counties are good until one year after subsequent census tract data is available; after that time period, a county would have to submit a new request to the Department based upon current census tract data.	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
5103	Ignatius, A. San Bernardino County Dept. of Public Works	Section 18992.2(b). Similar language to that used in section 18992.1(d) should be used to stipulate that "the county shall notify the jurisdiction or jurisdictions" that lack sufficient edible food capacity of the jurisdiction's reporting requirements to the Department.	CalRecycle add a new Section 18992.2(d) in response to this comment. CalRecycle agrees that language similar to that used in Section 18992.1 should be used to stipulate that the county needs to notify the jurisdiction or jurisdictions that lack sufficient edible food capacity of the jurisdiction's reporting requirements to the Department.
5104	Ignatius, A. San Bernardino County Dept. of Public Works	Section 17 409.5.11 (b). Clarify if this requirement will pertain to landfills accepting material from the gray container collection stream.	CalRecycle has deleted the loadchecking requirement Section 17409.5.11 in response to comments.
5105	Ignatius, A. San Bernardino County Dept. of Public Works	Section 20700.5(a). The additional requirements for Long Term-Intermediate Cover "Compacted earthen material at least 36 inches shall be ... " should revert back to previous draft "Compacted earthen material at least 12 inches shall be ... ". The additional requirement to add 24 inches of cover on all slopes would be an extreme financial burden	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
3067	Israel, M., Amador County	<p>Proposed language for article 9, section 18990.1 (b), could be interpreted to tie the hands of local governments, preventing them from denying proposals for land applications of green waste, biosolids, or digestate that are consistent with article 2, section 18983.1(b)(6).</p> <p>18990.1 (b) A jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that do any of the following:</p> <p>(1) Prohibit the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter,</p>	<p>CalRecycle added clarifying language to this section to indicate that Article 9 section 189901 (c) (3) provides that this section does not prohibit a jurisdiction from superseding or otherwise affecting the land use authority of a jurisdiction, including, but not limited to, planning, zoning, and permitting, or an ordinance lawfully adopted pursuant to that land use authority consistent with this section.</p> <p>A. The requested changes to the regulatory text are not necessary. However, CalRecycle is adding additional language to Section 18990.1(b)(1) to further clarify its meaning in light of comments received regarding it. Article 9, Sections 18990.1 (a) and (b) are not contradictory. 18990.1 (a) clarifies that it does not limit a jurisdiction in adopting more stringent standards than</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(2) Limit a particular solid waste facility, operation, property, or activity from accepting organic waste imported from outside of the jurisdiction for processing or recovery.</p> <p>(3) Limit the export outside of organic waste to a facility, operation, property or activity outside of the jurisdiction that recovers the organic waste through a method identified in Article 2 of this chapter,</p> <p>(4) Require a generator or a hauler to transport organic waste to a solid waste facility or operation that does not process or recover organic waste.</p> <p>(5) Require a generator to use an organic waste collection service or combination of services that do not recover at least the same types of organic waste recovered by a service the generator previously had in place.</p> <p>18983.1(b)(6) Land application, as defined in Section 17852(a)(24.5) of this division subject to the following conditions:</p> <p>(A) Green waste or green material shall meet the definition of Section 17852(a)(21) and shall have been processed at a solid waste facility, as defined by Section 40194 of the Public Resources Code.</p> <p>(B) Biosolids shall:</p> <ol style="list-style-type: none"> 1. Have undergone anaerobic digestion or composting, as defined in Part 503, Title 40 of the Code of 21 Federal Regulations, Appendix B, and, 2. Meet the requirements in Section 17852(a)(24.5)(B)(6) of this division for beneficial reuse of biosolids. <p>(C) Digestate shall:</p> <ol style="list-style-type: none"> 1. Have been anaerobically digested at an in-vessel digestion operation or facility, as described in Sections 17896.8 through 17896.13; and, 2. Meet the land application requirements described in Section 17852(a)(24.5)(A). 3. Have obtained applicable approvals from the State and/or Regional Water Quality Control Board requirements. <p>If this revision of regulations is intended to constrain local governments ability to make land use decisions, we must object. If it is not intended to infringe upon local land use decisions, please clarify.</p>	<p>the ones outlined in this chapter. The purpose of the specific limitations set forth in paragraphs 1-5 of 18990.1 (b) are to ensure that jurisdictions do not impose restrictions on the movement and handling of waste and waste-derived recyclables that would interfere with or prevent meeting the organic waste recovery targets established in SB 1383.</p> <p>B. Article 2, Section 18983.1 (b)(6)(b) clarifies that land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards. 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. While this regulation defines land application as 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 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. The additional language will ensure that such restrictions can be reviewed on a case-by-case basis to determine if they are actually necessary and tailored to protect the public health and safety, or if they are actually unnecessary and overbroad restrictions.</p>
5012	Israel, Michael. Amador County	We were approached today by Layne Baroldi, a representative for Synagro, regarding a potential client in our county who would like to apply biosolids. We've had a couple of onetime applications at permitted wastewater facilities that I'm aware of over the last 30 years but this would be the first application for continuous application at an ag site. Mr. Baroldi cited rule making to implement SB 1383, a waste reduction bill passed in 2016, as proscribing local ordinances that would ban biosolids application. He mentioned Hank Brady at CalRecycle as a contact. Do you know if this would be the best person to talk to about this?	Comment noted. A change to the regulatory text is not necessary.
1171	Jahnke, Keith, Tulare County Health and Human	18083 -The requirement to observe sampling has nothing to do with the intent of SB 1383 which is to reduce short lived climate pollutants or to reduce organic waste in landfills?	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards

Comment Number	Received From	Question/Comment	Response(s)
	Services Agency, Environmental Health Division		the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1172	Jahnke, Keith, Tulare County Health and Human Services Agency, Environmental Health Division	18083 - The initial statement of reasons for performing this task is vague. The sampling could be on occasion with an appointment and could also be confirmed by a records check such as is done with pathogen, heavy metal and tonnage.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1039	James, Michael City of Shafter - Public Works	The regulations assume that facilities to accept and process diverted or recovered organics are either operational or dictate that they should be developed. In the case of Kern County, these facilities do not exist or are not adequately equipped to handle the projected volumes of material. Therefore, our residents and businesses are dependent on new facilities being developed, and this simply cannot happen before the targeted compliance year of 2020 and even 2025.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
1040	James, Michael City of Shafter - Public Works	Unreasonably Aggressive Timeline for Compliance The timelines to achieve targeted compliance by 2020 and 2025 are simply unreasonable, particularly for regions of the State that lack access to facilities that can handle organics that must be eliminated from the waste stream.	Comment noted. The organic waste reduction goals of 2020 and 2025 are established by Public Resources Code Section 42653 and Section 39730.6 of the Health and Safety Code.
1041	James, Michael City of Shafter - Public Works	Suggested alternatives to the schedule being proposed are as follows: • Apply the current compliance targets to generators such as schools, grocery stores, and restaurants, who should have resources for handling food waste and extend the residential and general commercial compliance targets to 2030.	The regulations include requirements on local education agencies, grocery stores and restaurants for edible food recovery. Delaying compliance to 2030 would be inconsistent with statutory requirements.
1042	James, Michael City of Shafter - Public Works	Suggested alternatives to the schedule being proposed are as follows: • Offer time extensions or even waivers for local agencies and haulers that serve economically disadvantaged communities.	CalRecycle has provided waivers under certain circumstances such as for rural and high elevation areas, but has chosen not to provide a waiver for disadvantaged communities due to concerns in achieving the organic waste diversion goals in statute.

Comment Number	Received From	Question/Comment	Response(s)
1043	James, Michael City of Shafter - Public Works	Suggested alternatives to the schedule being proposed are as follows: Start the compliance clock after the effective date, currently projected for January 1, 2022, rather than expect to have targets reached beforehand in 2020.	A change to the regulatory text is not necessary. Comment noted. The organic waste reduction goals of 2020 and 2025 are established by Public Resources Code Section 42653 and Section 39730.6 of the Health and Safety Code.
1044	James, Michael City of Shafter - Public Works	The basic objective of SB 1383 is to improve the State's air quality but requiring new curbside organics collections for every generator will no doubt require that fleets of new trucks be put into service, which will certainly increase air pollutant emissions. CalRecycle should at least address this concern and, preferably, explain how the implementation of the regulations, as drafted, will be a net positive result for our air quality after factoring in the addition of new trucks for the collections and transportation of organics.	Comment noted. CalRecycle prepared an Environmental Impact Report to analyze potential environmental impacts.
1045	James, Michael City of Shafter - Public Works	The proposed regulations, as well as the enforcement and public outreach policies dictated, read like a "one size fits all" solution that does not consider the diverse populations, economic issues, demographics, and resources of the State's many regions. Expecting cities like Shafter, with no funding or other resources in place for these programs, to manage all the expectations exactly like a much larger and more metropolitan area like the City of Bakersfield is shortsighted and unreasonable.	The regulations do provide flexibility in certain areas, such as in choosing the type of collection service that will be implemented to achieve the diversion goals of the program. There are also waivers from compliance under certain circumstances. The statute provides authorization for jurisdictions to impose fees to offset the costs of implementation.
1046	James, Michael City of Shafter - Public Works	CalRecycle should consider modeling enforcement similarly to what is being offered through the State's implementation of the Sustainable Groundwater Management Act (SGMA). In the case of SGMA, counties are allowed to develop a local compliance plan that is coordinated amongst cities and other stakeholders. These plans can factor in local resources, limitations and other considerations but will still be reviewed by the State to verify that regulatory objectives have been met.	Commenter is expressing an opinion regarding the overall compliance model for the regulations, but is not providing specific language recommendations. CalRecycle has determined that the model used in the regulations is the most appropriate alternative that will achieve the organic waste diversion goals in statute.
2018	Johnson, Jack; San Meteo County Office of Sustainability	A contract between a food bank/food recovery organization and a generator is the most important aspect of the 1383 edible food recovery legislation. Only with a contract will a food recovery org be able to set the terms by which they can reliably, efficiently, and cost effectively obtain food for human consumption. Food banks, etc. need to be able to set the times of pickup, condition of the food, and other considerations necessary to get food in a timely manner and suitable condition for consumption. Food banks and others need a strong legal footing to be able to make this work for themselves and actually get the food eaten. This is key.	A change to the regulatory text was not necessary because this comment is in support of the requirement for commercial edible food generators to establish contracts or written agreements with food recovery organizations and services. CalRecycle would like to clarify that 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 provisions in their contracts to protect their operation from receiving food that they are not able or willing to accept. Other food recovery organizations or food recovery services could include cost sharing provisions as part of their contracts or written agreements with commercial edible food generators. CalRecycle would like to clarify that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from negotiating cost sharing as part of their contracts or written agreements with commercial edible food generators.
3166	Jones, C., City of Taft	Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic

Comment Number	Received From	Question/Comment	Response(s)
		<p>Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.</p>	<p>waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3167	Jones, C., City of Taft	<p>Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Taft and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3168	Jones, C., City of Taft	<p>Enforcement: These regulations allow for Corrective Action Plans and establish extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.</p>	<p>Comment noted, the comment does not recommend a regulatory change.</p>
3169	Jones, C., City of Taft	<p>Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an</p>	<p>A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.</p>	<p>to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.</p>
3170	Jones, C., City of Taft	<p>Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by Cal Recycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding. The City of Taft further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even if a fee were to survive scrutiny under Prop. 26, it is questionable whether a city would have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.). This latter concern is currently the subject of litigation in the Third District Court of Appeals (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Taft requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383. According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate. Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source. CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to</p>

Comment Number	Received From	Question/Comment	Response(s)
			delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.
6014	Juhler, M., Yolo County Central Landfill	Re section 18994.2/jurisdiction reporting: (a) Commencing August 1, 2022, and annually thereafter, a jurisdiction shall report the information required by this section. The report submitted in 2022 shall cover the period of January 1, 2022-June 30, 2022. Each subsequent report shall cover the entire previous calendar year. We would like clarification on what this means. Our current system of reporting for a “calendar” year is January –December therefore this year (2019) for example we will report the following on our EAR (Jan.1, 2018-Dec. 3, 2018) on August 1, 2019. This allows is 7 months to prepare the report for CalRecycle.	A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
6015	Juhler, M., Yolo County Central Landfill	In reading the section highlighted in red if in 2022 only we are asked to do the following report Jan. 1-June 30, this would only allow haulers 15 approximately days to get us their data and allow the County approximately 15 days to review that data and compile a report by the August 1st deadline. 1. Could you please verify if our interpretation is correct? In order for the County and its haulers to compile data and review it with accuracy we do not feel 30 days is sufficient. Could the reporting date in 2022 be moved to October 1st?	A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
6016	Juhler, M., Yolo County Central Landfill	Also, it does not mention whether the normal Jan. 1, 2021-Dec. 31, 2021 data would need to be provided in the year 2022. Is this Jan.-June 2022 report in lieu of the calendar year report or is CalRecycle asking for two reports to be submitted in 2022?	A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
6012	Kawar, F., Santa Monica College	Any home with enough area for large amounts of landscape can also find space to compost on the property. Promoting grasscycling, xeriscaping, and mulching will go a long way to reducing the need for hauling the material away.	Thank you for the comment. The regulations allow for waste prevention and on-site management of organic waste.
6013	Kawar, F., Santa Monica College	Continuing to count on the same system of centralized compost facilities that are sited many miles away is outdated, expensive and causes too much road congestion and pollution. I hope CalRecycle looks at decentralized solutions that keep the valuable material in our communities where it’s needed to build soils and retain water on properties. Santa Monica College is also training students, through the Recycling and Resource Management Certificate program, to manage mid-size compost systems like the one we have been using for 17 years. We hope the haulers	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.

Comment Number	Received From	Question/Comment	Response(s)
		and generators of organic materials will begin to take notice and starting thinking of smaller, distributed solutions like this so our students can find jobs managing the compost programs.	
3344	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 1 Section 18982, Definitions</p> <p>The definition of "renewable transportation fuel" without any justifiable reason and/or scientifically supported analysis, limits it to fuel derived from renewable gas through in-vessel digestion of organic waste only. The regulations should expand the definition of "renewable transportation fuel" to include fuel derived from renewable gas from other technologies, including thermal conversion technologies such as gasification and pyrolysis, as well methane gas generated from municipal solid waste landfills since it is biogenic in origin.</p>	<p>The definition of "renewable transportation fuel" has been revised to "renewable gas". CalRecycle disagrees with the interpretation that there is no "justifiable reason" for the definition of "renewable transportation fuel", or now "renewable gas" to be limited to in-vessel digestion. 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 which allows the department to verify that these facilities are reducing the disposal of organic waste.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>Regarding landfill gas, the SB 1383 mandate is to recover organic waste that would be disposed; therefore it is inconsistent with statute to incentivize or mandate activities that do not reduce landfill disposal.</p>
3345	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 3 Section 18984.12 Waivers and Exemptions Granted by the Department</p> <p>As the regulations are written, it does not allow for good faith effort. Given the realities of lengthy environmental review and permitting for new facilities or expanding existing facilities to include food waste, and other unavoidable impediments to implementation of the regulations, provisions should be made for Good Faith Effort.</p> <p>The good faith effort model is outlined in Public Resource Code 41825 with respect to a jurisdiction's source reduction and recycling element and is appropriate to consider in implementing SB1383. Specifically, PRC Section 42652.5 (a)(4) directs the department to base its review of a jurisdiction's compliance on a variety of factors, including PRC 41825.</p> <p>Section 18984.12 should have a subsection (e) stating that "Waivers and extensions may be granted to any generator, hauler, or jurisdiction that has made a good faith effort to comply with these requirements but has been unable to identify a facility with sufficient capacity to process the materials."</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
3346	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 7 Section 18988.3 Self..haulers of Organic Waste</p> <p>The current language requires all self-haulers to report annually to their jurisdiction the amount of organic waste and the address of the disposition of the waste. This requirement should clarify that it is for business self-haulers, and not residential self-haulers. This</p>	<p>Language was ultimately changed to remove the annual reporting to jurisdictions for all self-haulers.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>requirement is excessive for residential self-haulers, would be time consuming for jurisdictions to track, and the likelihood for compliance from residential self-haulers would be low. It would be nearly impossible for a jurisdiction to be able to track each residential self-hauler. It is recommended that Section 19899 .3(c) be modified as follows: the text clarify the distinction business and residential self-haulers. "A generator that is located in a jurisdiction or area that received a waiver under Section 18984.12 of this 15 division and/or is not a business subject to the requirements of Section 42649.81 of the Public Resources Code is not required to comply with the requirements of this section."</p>	
3347	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 9 Section 18990.1 (b)(2) Organic Waste Recovery Standards and Policies As proposed, this section would prohibit facilities from preventing or limiting organic waste coming from outside of the jurisdiction. It is imperative that facilities be able to control the source of materials and ensure processing capacity for the host jurisdiction or county. We request that Section 18990.1 (b)(2) be removed in its entirety.</p>	<p>Section 18990.1(c)(4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery. Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law.</p>
3348	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 9. Section 18990.1 (b)(3) Organic Waste Recovery Standards and Policies As proposed, this section contradicts the decision in UNITED HAULERS ASSOCIATION, INC., ET AL. V. ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY ET AL., preventing jurisdictions to utilize flow control. We request that Section 18990.1 (b)(3) be removed in its entirety.</p>	<p>A change to the regulatory text is not necessary. United Haulers Association Inc., et al. v. Oneida-Herkimer Solid Waste Management Authority et al. states that an ordinance requiring waste go to a public facility does not violate the flow control restrictions of the Interstate Commerce Clause, does not authorize or require that municipalities be allowed to do so under the U.S. Constitution, nor does it prohibit a state from prohibiting such restrictions. State law explicitly promotes the free movement of material under the Integrated Waste Management Act, Public Resources Code Sections 40001 and 40002, and this restriction is designed to ensure that. Section 18990.1 (b)(3) prohibits the limitation of exports outside the jurisdiction, which is necessary to address the need for regional collaboration and to ensure the highest diversion rates are achieved to meet the statute's goals. A change to the regulatory text is not necessary. Section 189901 (c) (4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery. Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law.</p>
3349	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 11 Section 18992.1 (c)(2)(A) Organic Waste Recycling Capacity Planning A timeframe should be required for entities to respond to county's requests for information. In addition, the regulations state that haulers and owners of facilities, operations, and activities that recover organic waste shall respond to the</p>	<p>Thank you for the comment. CalRecycle revised the text based upon the comment.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>jurisdiction regarding potential new or expanded capacity at their facilities; however, it does not include "existing capacity".</p> <p>"Entities contacted by a jurisdiction shall respond to the jurisdiction within 60 days of receiving the request from the county regarding existing and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes"</p>	
3350	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 11 Section 1899 2.1 (c)(3) Organic Waste Recycling Capacity Planning</p> <p>The regulations state that the county shall conduct community outreach regarding locations being considered for new or expanded facilities, in- or outside the county. We recommend that this responsibility be the role of the jurisdiction (host city or host county for unincorporated area) in which the new or expanded facility is being proposed, and not solely the role of the county regardless of the location of the new or expanded facility. Additionally, if the County is required to conduct such outreach, the regulations should clarify if this outreach must be done throughout an entire city where a new or expanded facility is being considered or within a radius of a certain number of miles from the address at which the facility is being proposed.</p>	<p>The community outreach required in Section 18992.1(c)(3) is intended for the facilities or activities located within the county. Counties can work in coordination with cities to provide this outreach. Nothing precludes cities from providing outreach.</p>
3351	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 11 Section 18992.1 (d) Organic Waste Recycling Capacity Planning</p> <p>According to SB 1383, CalRecycle, in consultation with CARB, shall adopt regulations that achieve the specified targets for reducing organic waste in landfills (i.e., a 50-percent reduction by 2020 and a 75-percent reduction by 2025). The current draft of the regulations state that a jurisdiction that lacks sufficient capacity shall "demonstrate how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period." The way it is currently written, it appears that the regulations are requiring that all organic waste that is currently disposed be recovered (or planned for recovery) by the end of the report period.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(d)If a county determines that organic waste recycling capacity, in addition to the existing and proposed capacity identified pursuant to subsection (a), is needed within that county, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity that each jurisdiction is required to:</p> <p>(1)Submit an implementation schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover an amount of the organic waste that is equivalent to a 50-percent reduction in 2014 organic waste disposal levels by 2020, and a 75- percent reduction by 2025 currently disposed by generators within their jurisdiction by the end of the report period set forth in Section 18992.3 of this article.</p>	<p>A change to the regulatory text is not necessary because the proposed change would entail placing a numerical limit on a jurisdiction, which is not allowed by the statute.</p>
3352	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 11 Section 1899 2.1 (d) Organic Waste Recycling Capacity Planning</p> <p>This section requires an implementation schedule that demonstrates how jurisdictions will ensure there is enough new or expanded capacity to recover the organic waste currently disposed of by generators within their jurisdiction by the</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>end of the report period. This includes a schedule for obtaining funding for recycling infrastructure, identification of facilities, etc.</p> <p>This is a challenging requirement for all jurisdictions as it is likely the current infrastructure is not sufficient for the amount of organic waste currently produced and the hurdles in order to site a facility, let alone fund and permit new facilities. Assistance from CalRecycle in working with other agencies in permitting new facilities is necessary to advance the organics recycling infrastructure.</p>	<p>waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3353	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 11 Section 18992.2 Edible Food Recovery Capacity</p> <p>This section requires an implementation schedule that demonstrates how the county will ensure there is enough new or expanded capacity to recover the edible food currently disposed of by generators within their jurisdiction by the end of the report period. This includes a schedule for obtaining funding for recycling infrastructure, identification of facilities, etc. In general, edible food recovery is managed by non-profits and is independent from city or county oversight or involvement in their funding, operations, etc. Under the proposed regulations, the county is responsible for estimating the amount of edible food that will be disposed by commercial operators. Currently, there are no tools to quantify the amount of edible food in the disposal stream. Therefore, we recommend that CalRecycle provide Counties with a methodology to estimate the amount of edible food within the disposal stream.</p>	<p>CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.</p>
3354	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 13. Section 18994.2 Jurisdiction Annual Reporting</p> <p>The RCDWR suggests the following edit: "(a) Commencing August 1, 2022 2023, and annually thereafter, a jurisdiction shall report the information required by this section. The report submitted in 2022 shall cover the period of January 1, 2022 June 30, 2022. Each subsequent report shall cover the entire previous calendar year."</p> <p>This edit would allow a jurisdiction adequate time to collect the information required in regulations. The required information must be gathered from numerous entities within a jurisdiction as well as its hauler(s) and one month to compile that information as suggested by the draft language is not adequate.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>
3355	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 14. Section 1899 5.1 Jurisdiction Inspection and Enforcement Requirements</p> <p>"(a) By January 1, 2022, a jurisdiction shall have an inspection and enforcement program that ensures compliance with this chapter and that at a minimum, includes the following requirements:"</p> <p>There is no consideration for the funding of implementation and enforcement of these regulations. This is an unfunded mandate. While RCDWR recognizes the need</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental</p>

Comment Number	Received From	Question/Comment	Response(s)
		to minimize the amount of organics landfilled, these regulations are vast and will take time and funding to implement, including the funding and hiring of additional staff.	approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
3356	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>Article 15, Section 18996. 3 Department Enforcement When Jurisdiction Fails to Enforce</p> <p>A subsection (c) should be added to section 18996.3 stating, "Notwithstanding the preceding, if a jurisdiction demonstrates good faith effort at complying with these requirements, the department shall not seek administrative penalties."</p> <p>A subsection (d) should be added to section 18996.3 stating, "No penalties shall be assessed on a jurisdiction for failure of State, federal, or other entity's failure to comply with the requirements of these regulations if the local government has no method of providing legal authority over the actions of the entity."</p> <p>These additions are based on Section 18996.6 which specifies that while a State agency may receive a notice of violation, and various bodies may be notified of this, there is a provision for "substantial effort," and there is no provision for administrative penalties. Local governments cannot compel a State (or federal) agency to comply with the requirements, and yet is responsible for the resultant waste. Clearly failure of State or federal agencies to fully comply with all requirements would constitute a potential factor in not complying with the requirements, and the jurisdiction should not be held responsible for their failure to comply.</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p> <p>A change to the regulatory text is not necessary. Pursuant to 18996.6, the Department has oversight and enforcement over state agencies and facilities. Local jurisdictions do not authority to enforce against these entities. Enforcement actions against these entities is fundamentally different in nature from enforcement action against other regulated entities.</p>
3357	Kernkamp, H., Riverside County Dept. of Waste Resources	<p>California Code of Regulations (CCR) Title 27 {20700.5 Ca/Recycle-Long-Term Intermediate Cover</p> <p>"(a) Compacted earthen material at least 36 inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 30 months to control methane emissions."</p> <p>The RCDWR requests that §20700.5 be removed in its entirety. Modern landfills are currently regulated by CCR Title 27, Chapter 3, Subchapter 4, Article 6: Gas Monitoring and Control and Active and Closed Disposal Sites. The current regulations require landfill operators to monitor and control landfill gas, including methane emissions. The proposed requirement of 36 inches of compacted earthen material is an additional burden on landfills that is not necessary to control landfill gas and will likely generate more emissions through the placement and removal</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>process (landfill operators will not leave intermediate cover in place when coming back into those areas, equiring extra heavy equipment cycles for the additional 2 feet of material). There has been no scientific or engineering justification for increasing the long-term intermediate cover depth, in fact, additional emissions would be generated if the soil for the additional cover is not available onsite and needs to be imported. Methane emissions are already regulated at landfills and are enforced with existing, stringent monitoring requirements.</p>	
3162	Kester, G., CA Association of Sanitation Agencies , McIntyre, D., Dublin San Ramon Services District	<p>Article 6 Section 18987.2(a)(1) – The language requires all biosolids produced at any wastewater treatment plant to be treated via anaerobic digestion and/or composting and sent for land application. In addition to other treatment technologies as mentioned in comment 1 above, there are also other end uses employed which would be disallowed under this requirement. California has two incinerators and roughly five surface disposal sites located at wastewater treatment plants. None of the sludge produced at those facilities would ever be transported off-site and would neither be landfilled or land applied and thus would seem beyond the purview of these regulations. It would be cost prohibitive to require these facilities to change technology and management practices. Similarly, it is imperative that all treatment options in 40 CFR part 503 Appendix B (Class A and Class B) be allowed and viewed as “recovery” (not just anaerobic digestion and composting). Treatment technologies are themselves dynamic and emerging resulting in alternative treatment and final disposition of biosolids. For example, thermal processes can produce energy and biochar. These technologies should be encouraged, not excluded as the language in this section appears to do. Dried biosolids have long been used effectively as alternative fuel at cement kilns in place of fossil-based fuels. We recommend all treatment technologies specified in Appendix B of 40 CFR part 503 which result in land application or land reclamation should be counted as a reduction in landfill disposal. Existing biosolids management practices whereby biosolids do not leave the site should be excluded from these regulations. And emerging technology which may result in energy production (thermal) or avoid fossil-based fuels (cement kilns), but which do not send any biosolids to a landfill should be encouraged. Additionally, our understanding is that CalRecycle does not intend (and lacks the authority) to ban any organic waste stream from landfills. Rather, future use was to be negotiated between a wastewater plant and their jurisdiction of origin. We request that these regulations be revised to explicitly articulate that approach. We recommend the following revisions to this section: Section 18987.2. Biosolids and Sewage Sludge Handling at a POTW (a) Biosolids generated at a POTW shall be: (1) Treated and managed in accordance with the Land Application, Incineration, or Surface Disposal requirements specified in 40 CFR part 503,</p>	<p>CalRecycle has determined that the suggested revisions are not necessary or consistent with the SB 1383 legislative intent. The overall goal of SB 1383 is to reduce methane emissions and the options in Section 18987.2 reflect uses that reduce methane. CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(2) Transported to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 18983.1(b) of this division,</p> <p>(3) Be treated and managed in other approved manners, approved by the regional, state, or federal agencies having appropriate jurisdiction.</p> <p>(4) Notwithstanding subdivision (a)(1-3), sewage sludge and biosolids when it is not possible for them to be adequately treated and sent for additional processing or recovery may be sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the regional, state, and federal agencies having appropriate jurisdiction.</p>	
3163	Kester, G., CA Association of Sanitation Agencies , McIntyre, D., Dublin San Ramon Services District	Article 9 Section 18990.1(c)(3) seems inconsistent with the language added to s. 18990.1(a & b) which restricts local ordinances such that they may not impede organics recycling. Sub (c)(3) seems to supersede that restriction. Clarity or revision of this language is requested to ensure an open market across California for organics recycling	There is no conflict between these provisions. Subsection (c)(3) is simply designed as a catch-all provision to make clear that the requirements of (a) and (b) should not be considered as overriding general planning, zoning, permitting or ordinance authority that does not fall within the provisions of (a) and (b).
3161	Kester, G., CA Association of Sanitation Agencies ; McIntyre, D., Dublin San Ramon Services District	Article 2 section 18983.1(c) – Includes “...or any other disposal of waste as defined by Section 40192(c) of the Public Resources Code.”, in the definition of Landfill. This is a very broad definition and seems to limit the disposition to organic waste deposited on land. We believe this is an overly restrictive definition, and will create confusion because of the inclusion of technologies other than landfilling in the definition of landfill (by virtue of the cross-reference to PRC Section 40192(c)). We request that CalRecycle clarify the scope of this definition. (see comment 3 below as well).	It is unclear from the comment what “technologies” the commenter is referring to or what clarity they are seeking as to the scope of this section. To the extent the comment is addressing land application of compostable material, that activity is specifically identified as a reduction in landfill disposal if it meets the conditions of the section. To the extent the comment is addressing surface disposal sites at wastewater treatment plants, that would be considered landfill disposal under this section unless it meets the requirements of land application of biosolids under this section or qualifies as an alternative technology that constitutes a reduction in landfill disposal under Section 18983.2.
3164	Kester, G., CA Association of Sanitation Agencies McIntyre, D., Dublin San Ramon Services District	<p>Article 12 Section 18993.1(f) defines eligible recovered organic waste products which satisfy the procurement requirements of s. 18993.1(e).</p> <p>a. Sub (f)(1) stipulates that compost is an eligible product. We assume this includes biosolids compost but request explicit confirmation of that. Furthermore, there are many other biosolids products which should be considered as eligible recovered organic waste products. A jurisdiction should be given broad latitude in meeting this requirement and all biosolids products meeting the land application requirements of 40 CFR part 503 should be eligible.</p> <p>b. Sub (f)(2) stipulates that renewable transportation fuel is also an eligible recovered organic waste product. While we support the intent of this requirement to help create end markets, we question the definition of Renewable Transportation Fuel in Article 1 18982(a)(62), which requires the fuel be derived “...from organic waste diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste.” Does this exclude renewable transportation fuel which is derived from sewage sludge anaerobic digestion alone, without codigestion? We trust that is not the intent, since anaerobically digesting sewage sludge, land applying the resultant biosolids, and producing low carbon transportation fuel is certainly consistent with the</p>	<p>The current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target. However, CalRecycle disagrees with adding “other biosolids products”. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p> <p>CalRecycle disagrees with the commenter’s argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction’s procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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. For the reasons noted above, gas generated from the inflows of a</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>requirements of SB 1383 and these regulations. All sewage sludge which is anaerobically digested could be considered to be diverted from landfills. Please clarify whether the intent of the language is to include all sewage sludge and co-digested materials under this eligibility requirement. Alternatively, we respectfully request this definition be amended to read: “...gas derived from organic waste processed in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23.”</p> <p>c. Sub(f)(2) – We also request that any other beneficial uses of methane be deemed eligible to qualify as fulfilling the procurement obligations. This includes pipeline injection, on-site power production and exported electricity, as well as the production of renewable transportation fuel. All should be deemed to be recovered organic waste products and eligible to satisfy the procurement requirements.</p>	<p>sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.</p> <p>Regarding “other beneficial uses of methane”, CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p>
3165	Kester, G., CA Association of Sanitation Agencies McIntyre, D., Dublin San Ramon Services District	2014 Waste Characterization Table – Please confirm that this Table has been updated to include biosolids data from 2014, since this serves as the baseline upon which compliance with the draft regulations is based.	The comment is not addressed to the regulatory text or the regulatory process but instead relates to a study undertaken separately from the proposed regulations.
3160	Kester, G., CA Association of Sanitation Agencies, McIntyre, D., Dublin San Ramon Services District	<p>Article 2 section 18983.1(c) – Includes “...or any other disposal of waste as defined by Section 40192(c) of the Public Resources Code.”, in the definition of Landfill. This is a very broad definition and seems to limit the disposition to organic waste deposited on land. We believe this is an overly restrictive definition, and will create confusion because of the inclusion of technologies other than landfilling in the definition of landfill (by virtue of the cross-reference to PRC Section 40192(c)). We request that CalRecycle clarify the scope of this definition. (see comment 3 below as well).</p> <p>None of the treatment processes delineated in Appendix B would generate methane. The greenhouse gas reduction achieved via land application rather than landfilling is the same regardless of the technology employed to meet the pathogen reduction and vector attraction reduction criteria. The ethane reduction is realized in the avoidance of landfilling not by the process utilized to treat the biosolids. While it is true that most biosolids in California undergo either anaerobic digestion and/or composting, other compliant technologies are also utilized and entities should not be penalized for using them.</p>	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p> <p>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</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>CASA strongly urges CalRecycle to replace the words “.... anaerobic digestion or composting....” With “..... one of the processes,”. In support of this argument, please refer to the BEAM model at this link: https://casaweb.org/wpcontent/uploads/2015/12/1-BrownetalEST-GHGCalculator10.pdf which has been adopted by the Canadian Ministries of the Environment as a means to quantify the climate change mitigation benefits of biosolids land application.</p>	<p>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.</p>
6296	Klein, L., City of Sunnyvale	<p>While we recognize and appreciate CalRecycle's efforts to provide for a variety of collection strategies, the "three-container/two-container/single-container" options are overly prescriptive, inflexible, and fail to take into account legitimate variations in how organics are collected, processed and marketed. To maximize the suitability for recycling of the materials we collect, Sunnyvale uses a "five-container" system that provides residents a yard trimmings cart, a dual stream recycling cart (split between paper and containers), and a dual-stream garbage cart (split between food scraps and garbage).</p> <p>Many jurisdictions, including Sunnyvale, are already pursuing Zero Waste goals in ways that also promote 70% and 75% organics diversion. Thus, we support the creation of an "Alternativ " 4" that allows cities and counties to opt out of the prescriptive measures in Article 3, the enforcement requirements of Articles 14, 15 and 16 and reporting requirements in Article 13 that pertain to Articles 14, 15 and 16, thereby allowing those jurisdictions to focus their efforts on diversion, not checklists, citations and fines.</p>	<p>Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.</p>
6297	Klein, L., City of Sunnyvale	<p>The proposed per capita purchase requirements for recovered organic waste products would force the City to procure amounts of compost that are an order of magnitude larger than what we currently use. The alternative of purchasing a biogas-derived fuel product, for which no local or regional vendor exists, if the fuel was available, would require annual vehicle use equivalent to over four million miles of driving.</p> <p>If a procurement requirement is retained, we ask that it:</p> <ul style="list-style-type: none"> • Use calculation factors that result in required amounts bearing some resemblance to what a jurisdiction is capable of consuming • Use calculation factors that adjust annually based on how much organic material is being diverted during that year, not on a theoretical calculation that assumes 75% diversion is achieved immediately • Allow biogas uses other than transportation fuel (e.g. electricity generation, pipeline injection) to qualify • Allow not just compost, but mulch and similar waste-derived materials to qualify. 	<p>Regarding calculations for “what a jurisdiction is capable of consuming”, it is important to note that the procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility to choose product that fit local needs. Moreover, the comment lacks specific language for quantifying such an approach for each jurisdiction. Even if the commenter recommended a quantifiable way to determine “what a jurisdiction is capable of consuming”, California has over 400 diverse jurisdictions and it would be overly burdensome to account for each jurisdiction’s custom needs and to develop a procurement target and enforcement policy for each one. Regarding the commenter’s proposal for an alternative calculation factor based on organic waste diversion to determine the per capita procurement target, CalRecycle disagrees with this approach. Legislative language in SB 1383 does not allow CalRecycle to impose the statewide 50% and 75% organic waste reduction targets on individual jurisdictions. Therefore, the per capita procurement target also cannot be individually imposed on each jurisdiction, it must be on a statewide basis. The purpose is to create a transparent method to establish the requirement for jurisdictions to create markets for recovered organic waste products. The current approach</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>already accounts for statewide organic waste diversion and for jurisdiction-specific need by providing flexibility to procure a variety of products that fit local needs.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
6298	Klein, L., City of Sunnyvale	<p>The proposed regulations appear to exceed the statutory authority granted by the SB 1383 statute. Most notably, the statute says (in Section 42652.5(a)(1)), "The regulations ... may authorize local jurisdictions to impose penalties on generators for noncompliance." But the regulations say (in Section 18995.4(a)(1))- Enforcement by a Jurisdiction), "The jurisdiction shall issue a Notice of Violation to any entity found in violation ... "</p> <p>If the regulations continue to take the current, overly detailed and prescriptive approach in which the City must enforce on our residents and businesses 18 state-required actions, we ask that Article 14 be revised to conform to the statutory language-that jurisdictions may, not shall, take enforcement action.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority' The [administrative agency] is authorized to "'fill up the details'" of the statutory scheme."</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p> <p>In addition, the language in Section 18995.4(a)(1) was changed to state, “The jurisdiction shall issue a Notice of Violation within 60 days of a determination that a violation has occurred.” This subsection does not mandate penalties but instead mandates that respondents determined to be in violation of the requirements of the chapter are put on notice of a violation.</p>
6299	Klein, L., City of Sunnyvale	<p>The regulations propose to amend Division 7 of Title 14 of the California Code of Regulations to require operators of facilities that process organics to capture, at least daily, very large (one cubic yard) samples from various process streams and perform detailed waste characterization sorts to document levels of organics and contaminants.</p> <p>These requirements are:</p> <ul style="list-style-type: none"> • not based on statistical science • will generate no more useful data than could be obtained with less costly and intrusive sampling methods • will consume vast amounts of time, labor, money and physical space that will be in excess of the value of information gained. <p>Equivalent performance tracking information can be obtained with sampling events conducted quarterly that use multiple small samples and thus improve the validity of the data.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. The sampling frequency 10 consecutive days was based on that 2 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.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>We ask that CalRecycle engage experts in scientific sampling and statistics to recast Article 6.2, sections 17409.5.1 through 17409.5.5 so that valid information can be obtained in a more reasonable manner. Sunnyvale uses such sampling in management of the Sunnyvale Materials Recovery and Transfer Station (SMaRT Station®) and staff would be happy to provide examples of the detailed protocols used at the SMaRT Station to determine the composition of various process streams.</p>	<p>Using data from the “2014 Disposal-Facility- Based Characterization of Solid Waste in California”, 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% 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%, 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 2 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 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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” collections streams are reflected in the sampling. Based on the expert 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
6300	Klein, L., City of Sunnyvale	<p>The organics diversion goals of SB 1383 will not be met without a substantial state-led effort to site, fund and permit dozens of new facilities. These facilities are needed to receive, transfer, convert to usable products, compost and anaerobically digest organics and market the resulting products. These topics are not addressed in the regulations.</p> <p>We ask that CalRecycle use the regulatory process to smooth siting, funding, and regulatory pathways to speed the development of the necessary facilities. We agree with the urgency and importance of increasing diversion of organics. We remain concerned that the very prescriptive and process-oriented approach taken in the regulations does not fully support achievement of the goal.</p>	<p>Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.</p>

Comment Number	Received From	Question/Comment	Response(s)
6091	La Mariana, J., RethinkWaste	<p>In the recently revised regulatory language, the Department grandfathered existing carts on the proposed labeling requirements in Section 18984.8. RethinkWaste strongly supports this change. Due to the composition of our containers, labels do not stick to the sides or the lids and are embedded to the lids of the carts. Relabeling them to comply with the requirements of this section would have forced our waste contractor to replace containers for all of our customers, incurring significant costs that would have resulted in residential rate increases.</p>	<p>Thank you for the comment. The comment is in support of the current language.</p>
6092	La Mariana, J., RethinkWaste	<p>It is critical that the Department provide as much support and guidance to local governments as possible on how to best comply with various aspects of the proposed regulation, including: Providing a sample ordinance that cities and counties can adopt, pursuant to Section 18981.2;</p> <ul style="list-style-type: none"> • Developing a system to do sampled route reviews pursuant to Article 3, Section 18984.5; • Fulfilling recordkeeping requirements pursuant to Article 3, Section 18984.6 to ensure consistent and reliable reporting to the Department, and; • Calculating jurisdictions’ edible food recovery capacity, pursuant to Article 11, Section 18992.2., and; • Calculating jurisdictions’ recovered organic waste procurement targets, pursuant to Article 12, Section 18993.1. 	<p>Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.</p>
6093	La Mariana, J., RethinkWaste	<p>In the three-cart system summarized in Article 3, section 18984.1 a local jurisdiction can choose to collect food waste in the green-bin or the black-bin. Food waste collection in the black-bin requires processing at a “high diversion organics facility” that demonstrates 75-percent organic waste diversion. However, food waste collection in the green-bin does not have this same quantitative requirement. We fear this inconsistency could lead to weak implementation of green-bin programs – by simply distributing green-bins, a jurisdiction would be considered in compliance with the regulations. We respectfully request the Department to clarify the regulations to hold local jurisdictions to the same 75-percent capture/diversion standard for organic waste collected via green binprograms. This clarification will ensure strong implementation and capture/diversion of organics through green-bin collection programs as well as through high-diversion organics facilities.</p>	<p>Section 18984.5 already requires all types of containers to be monitored. Instead of setting a performance standard on green containers, CalRecycle established container monitoring requirements and facility checking/monitoring. However organic waste recovery efficiency will be measured at facilities receiving source separated organic waste.</p>
6094	La Mariana, J., RethinkWaste	<p>Article 12, Section 18993.1 requires local jurisdictions to procure organic waste products either as compost or renewable transportation fuel. While we support these end uses for organic waste, we strongly believe that renewable electricity should also qualify as an end use for biogas. Expanding the list of end uses provides proper flexibility to local jurisdictions to use the biogas in a manner consistent with their needs. Because every city is different, some may have electricity needs that the biogas could help meet rather than vehicle fuel needs, and vice versa. We believe that allowing local jurisdictions to use biogas for renewable electricity is consistent with the goals of SB 1383 and California’s overarching climate goals, given the net greenhouse gas emission reduction benefits it will still achieve.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
6095	La Mariana, J., RethinkWaste	<p>Article 14, Section 18995.4 requires local officials to issue notices of violation within 60-days after determining a violation has occurred, as well as prescribes specific time periods to conduct follow-up inspections. Many local governments, especially smaller ones, lack the resources and capacity to meet the prescribed time frames. Local governments have only a handful of inspection officers to inspect thousands of locations across their jurisdiction.</p> <p>Therefore, they will have to increase their inspection team sizes significantly to meet potential enforcement and inspection requirements pursuant to this Section. Therefore, we respectfully request extending these time frames by an additional 30-days and allow for a window for compliance. For example, instead of prescribing a 60-day time frame to issue a notice of violation, allowing for a 60 to 90-day window would provide ample flexibility to local inspection officers to follow-up in an efficient and effective manner.</p>	<p>A change to the regulatory text is not necessary. Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if there are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction issues a NOV. Extending this time frame would allow the entity to be non-compliant an additional 30 days. Once the jurisdiction issues a NOV, it must follow up within 90 days. This subsection conforms to the Departments general procedure of written notices of potential failure and a reasonable timeframe for remedy.</p>
3306	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	<p>The current draft deprives cities and counties of local control for their diversion programs. In fact, many jurisdictions have long demonstrated a serious commitment to reducing landfill disposal; including early adoption of citywide organics and food scraps programs. These programs have been carefully researched, designed, piloted, implemented and enhanced for over a decade. If it can demonstrate that these programs meet the overall organics diversion goal of SB 1383, we believe that jurisdictions should be allowed to build on the programs established in pursuit of their landfill diversion commitments in a manner that works best for their</p>	<p>Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.</p>

Comment Number	Received From	Question/Comment	Response(s)
		community. These jurisdictions should not be burdened with the overly prescriptive requirements of SB 1383 regulations which may ignore or diminish existing successful efforts.	
3307	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	The current draft establishes procurement targets for the purchase of organic waste products. While we understand the need for promoting markets for recovered waste products, the current proposal, which relies heavily on the purchase of renewable transportation fuel, seems dramatically misaligned with the availability of renewable transportation fuels and each jurisdiction's ability to pay for them.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
3308	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	We continue to be concerned that the punitive approach to residents and businesses dissuades customers from making the behavior changes needed to reach the very ambitious goals set by SB 1383 and damages the historic relationship between local government and ratepayers.	A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies

Comment Number	Received From	Question/Comment	Response(s)
			may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.
3309	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	Forcing jurisdictions to procure specified amounts of recycled organic waste products and the calculation for quantifying the amount required is flawed. A better approach would be to simply require that jurisdictions' purchases of landscape materials include recycled content.	CalRecycle disagrees with revising the procurement approach to rely solely on jurisdictions' voluntary purchases of recycled content products. This approach would be insufficient to drive demand for recovered organic waste products on the scale necessary to help meet the ambitious targets required by SB 1383.
3310	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	There needs to be a formula to calculate the ratio of residents per land area. Requiring a jurisdiction to use the number of residents to calculate the recovered organic waste products required does not address large multifamily complexes that would generate large quantities of organic waste but will not have the landscape areas to place the recovered products. There needs to be a method for calculating residents per parcel and the quantity of available land for recovered products. Conversely, large, open farm land with one or two residents on 10's of acres needs a different method for calculations.	CalRecycle disagrees with the proposal for revising the procurement target to account for "ratio of residents per land area". The current approach relies on publicly available population data from the Department of Finance (DOF) to calculate a jurisdiction's annual recovered organic waste product procurement target. The comment provides no methodology by which a "ratio of residents per land area" would be calculated, therefore this approach would be subject to interpretation, and would not be based on a public database. The comment also focuses on "land areas to place recovered products", which seems to suggest the assumption that spreading compost on jurisdiction lands is the only option, which is not the case. CalRecycle has also revised Section 18993.1 to expand the list of eligible recovered organic waste products to provide more flexibility to jurisdictions. If a jurisdiction does not have the land area to spread compost, they can procure energy products or mulch, for example. However, CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use
3311	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	With the goal of reducing short-lived climate pollutants, having electric vehicles would better reach the goals than requiring use of renewable fuels. Additionally, with the goal of creating markets, then purchasing electricity generated from those sources would also be aligned.	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 "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.

Comment Number	Received From	Question/Comment	Response(s)
			<p>The IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
3312	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	<p>Section 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, 17409.5.9 and 17409.5.11</p> <p>Requiring daily waste characterization of one-cubic yard samples is expensive, labor intensive and occupies valuable space needed for operations. Some jurisdictions may have more than one facility which would then multiply the resources needed. A smaller sample size and lesser frequency could provide statistically equivalent results.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
3313	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	<p>The Proposed Regulation should clarify that food sales at large events and large venues that are not a part of the venue's direct concession services should be exempt from the food donation requirements. These are often outside the sphere of control of a jurisdiction.</p>	<p>CalRecycle would like to clarify that food vendors operating at large events and large venues are not exempt from the edible food recovery regulations. Large event and large venue operators must make arrangements to ensure that the food vendors operating at their event or venue are recovering the maximum amount of their edible food that would otherwise be disposed. In a situation where the food vendors at a large venue or large event are not in compliance with Section 18991.3 of the regulations, the operator of the large event or large venue would be responsible for compliance.</p>
3314	Landry, S., Recycling and Waste Reduction	<p>Requiring the jurisdiction to provide access to the implementation records within one business day seems unreasonable. We would prefer to see record requests synchronized to standard California Public Records Act requirements where each of our participating cities has existing policies and pathways established.</p>	<p>CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Commission of Santa Clara County		
3315	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	There should be coordination between SB 1383 regulations and other State Regulations that deal with soil management, such as the MWELo regulations which require landscape projects to provide a 'Soil Management Plan.' By adding requirement to use a percentage of the recovered organic waste in their Soil Management Plan will assist the local jurisdiction in meeting their procurement quantities	The proposed regulations were revised in to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELo. Section 18989.2 will require jurisdictions to adopt an ordinance or other enforceable requirement requiring compliance with the MWELo, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. However, compost and mulch used under MWELo does not automatically count towards procurement. CalRecycle's approach of a procurement target is necessary for jurisdictions to measure compliance with Article 12, which in turn is necessary to achieve the ambitious diversion targets required by SB 1383. Further, this approach recognizes the diverse number of jurisdictions across the state, and allows flexibility for jurisdictions to use any combination of recovered organic waste products, rather a one-size-fits-all mandate requiring public and private landscape construction to use compost and mulch, which is already addressed in MWELo provisions in the California Code of Regulations. Regarding coordination with other state regulations, CalRecycle participated in development and implementation of the Healthy Soils Initiative (HSI) and assisted the California Department of Food and Agriculture (CDFA) in developing reimbursable compost application rates, estimating nitrate loads following compost application, developing the HSI grant application, and including compost application as an eligible soil management practice. While CalRecycle appreciates the ability to provide input, the HSI is ultimately under the regulatory authority of CDFA, not CalRecycle.
3144	Laurel, A., City of West Sacramento	<ul style="list-style-type: none"> Article 1. Definitions, Section 18982 (a)(S) "Blue Container", (a)(28) "Gray container", (a)(29) "Green container" The City appreciates that CalRecycle now specifies that cart hardware may differ in color from the cart lid color requirement. However, the City is concerned that the container body color is not addressed in these new container color definitions. <ul style="list-style-type: none"> Please amend the regulations to specify that the cart body may differ in color from the required lid color. 	CalRecycle has revised the definitions of the containers to be consistent with each other. Also, thank you for the comment related to the increased flexibility regarding the color and hardware of the containers.
3145	Laurel, A., City of West Sacramento	<ul style="list-style-type: none"> Article 3. Organic Waste collection Services. This article specifies the minimum standards for organic waste collection services provided by jurisdictions. California currently lacks the necessary infrastructure to meet the proposed requirements. The City has concerns over our ability to comply with the organic waste diversion requirements given this limited capacity. While the regulation provides five years to implement programs, the City is concerned that this is not enough time to develop and permit new facilities. <ul style="list-style-type: none"> Consider local government exemptions for meeting the diversion requirements when existing infrastructure capacity prevents regulation compliance. 	A change in the regulatory text is not necessary. The regulations are effective in 2022, allowing for ample time for planning for lack of capacity or infrastructure deficiencies. Currently, it is 2020 and jurisdictions have until 2022 to address any capacity deficiencies and if necessary, they can be placed on a Correction Action Plan that allows for an extended timeframe to come into compliance. The regulations allow up to three years to come in to compliance on a CAP (in total this is effectively equivalent to the request five years).
3146	Laurel, A., City of West Sacramento	<ul style="list-style-type: none"> Article 4. Section 18985.1 (f) Translation requirement for outreach materials in any language that is spoken by more than 5% of a population. <ul style="list-style-type: none"> Allow images of waste stream materials to be used in place of translated text, and/or 	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> o Provide translated outreach materials in all necessary languages for the City to use to meet this requirement. 	
3147	Laurel, A., City of West Sacramento	<p>Article 10. Section 18991.1 Jurisdiction Edible Food Recovery Program (a)(2) requires jurisdictions to increase food generator access to food recovery organizations and (a)(4) requires jurisdictions to increase edible food recovery capacity if enough capacity does not exist. These requirements are beyond the scope and expertise of the City's existing jurisdictional authority.</p> <ul style="list-style-type: none"> o Rather than putting the City in the position of food recovery coordinator, consider working directly with food recovery organizations to help them increase their accessibility to food generators and their capacity to recover edible food. o Provide grant funding opportunities to Food Recovery Organizations to help them improve the efficiency of their operations. Most food recovery organizations are non-profits operating on minimal budgets. Providing funding opportunities directly to these organizations will allow them to make knowledgeable decisions on how best to use the funding to increase their accessibility and capacity. 	<p>With regard to the comment suggesting that these “requirements are beyond the scope and expertise of the city’s existing jurisdictional authority,” please refer to the Public Resources Code Section 42652.5 (a) (1)-(4) which grants CalRecycle the authority to impose requirements on jurisdictions and may include requirements to meet the goal that not less than 20% of edible food that is currently disposed is recovered for human consumption by 2025. This evinces an intent on the part of the Legislature to allow for CalRecycle to place requirements on jurisdictions to increase edible food recovery. In addition, assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. It is at the discretion of the jurisdiction to determine what jurisdiction entity is best suited to assess edible food recovery capacity and ensure that compliance with this regulatory requirement becomes a part of their scope.</p> <p>Regarding the comment, “Rather than putting the City in the position of food recovery coordinator, consider working directly with food recovery organizations to help them increase their accessibility to food generators and their capacity to recover edible food.” SB 1383 does not require jurisdictions to act as food recovery coordinators. A food recovery coordinator typically acts as a liaison between food donors and food recovery organizations and food recovery services to ensure that food is recovered and distributed to the organization and services with the greatest need for the food. SB 1383 does not require jurisdictions to do this.</p> <p>SB 1383 requires jurisdictions to implement edible food recovery programs, which includes the requirement that a jurisdiction shall increase edible food recovery capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs. Assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. If sufficient capacity does not exist, then significant amounts of edible food will continue to be disposed rather than being put to its highest and best use of helping feed Californians in need, and could jeopardize the state’s ability to achieve its 20% edible food recovery goal.</p> <p>Regarding the comment that CalRecycle should consider working directly with food recovery organizations to help them increase their capacity, CalRecycle does work directly with food recovery organizations and services across the state through CalRecycle’s Food Waste Prevention and Rescue Grant Program. CalRecycle’s Food Waste Prevention and Rescue Grant Program has given the Department insight into the significant differences in edible food recovery capacity needs that exist in cities, counties, and regions across California. These significant differences in capacity needs highlight the critical need for jurisdictions to perform their own local capacity needs assessments. The California Association of Food Banks has 41-member food banks and approximately 6,000 recipient agencies that they work with. The capacity needs of these organizations and food distribution agencies can vary widely from jurisdiction to jurisdiction. For a jurisdiction to implement an effective edible food recovery program it is critical that they are familiar with the food recovery organizations and services that operate in their area and the current capacity that exists.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>With regard to the comment about grant funding, CalRecycle has a food waste prevention and rescue grant program that funds food waste prevention and food rescue projects in California. CalRecycle has awarded 20 million dollars to over 60 grantees; the majority of the grantees are food recovery organizations and food recovery services. However, CalRecycle does recognize that there currently is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included in the regulations to encourage jurisdictions to establish a sustainable funding source to help fund their food recovery program.</p>
3148	Laurel, A., City of West Sacramento	<ul style="list-style-type: none"> Article 12. Section 18993.1 Recovered Organic Waste Product Procurement Targets. New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products at targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to the City, over and above the costs anticipated to comply with the extensive programmatic requirements of the proposed regulations. <ul style="list-style-type: none"> Consider working to develop markets for such materials in a second regulatory proceeding. 	<p>A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”.</p> <p>CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p> <p>However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
3149	Laurel, A., City of West Sacramento	<p>Financial Burden of Proposed Regulation. The extensive programmatic requirements to, among other requirements, implement enforceable ordinance(s), manage increased reporting requirements, conduct site visits and route audits, track and report on contamination issues, and issue, track and follow up on violations, will add a significant burden on City staff. The City may likely need to significantly increase customer rates as it is anticipated that additional staff will be hired to implement these programs. As required by State Law, any utility rate increase is subject to the Proposition 218 process. If rate increases are not approved, the City may not be able to fulfill the requirements of these new regulations.</p>	<p>Comment noted. Commenter is noting potential complications with funding the costs of implementing the regulations.</p>
3150	Laurel, A., City of West Sacramento	<p>Furthermore, these regulations will result in new financial burdens for local businesses who will be faced with increased service rates to implement a mandatory organic recycling program, increased local taxes to pay for the associated jurisdictional oversight and potential penalties for non-compliance. Considering the potential significant financial burden of the proposed regulations, the City requests that CalRecycle:</p>	<p>Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> o Provide grants, payment programs or other financial assistance to help the City and its businesses comply with the regulations. o Provide sample outreach materials, web-based calculation worksheets, webinar training, and other materials that jurisdictions can use to achieve and maintain compliance. o Provide jurisdictions assistance with the Proposition 218 process to help jurisdictions secure the rate increases necessary to comply with the regulations. o Consider options for jurisdictions when rate increases are not approved by tax payers to fund meeting the procurement requirements. o Consider the Good Faith Effort of the jurisdiction, when the jurisdiction does not have the funding resources necessary to comply with the regulations. 	
2008	Learakos, Mike; Waste Not OC Coalition	<p>We strongly urge either the addition of a third tier that includes any entity that is permitted to produce, manufacture, process, store, distribute or sell food OR alter Tier Two to include this definition for the following reasons. 1. Increasingly, the square footage and seating capacity of food facilities has little correlation to the amount of food waste generated. As leading food facility designers will confirm, the food industry in California is trending towards reducing their ‘footprint’ in order to mitigate rising costs. The fastest growing segment of retail food service industry today is the fast casual concept which typically falls below the Tier Two threshold but can easily produce as much or more food waste as a larger Tier Two facility with greater seating capacity. Likewise, catering and ‘in-plant’ feeders that operate within high occupancy office buildings would also be excluded under the current Tier Two definition. To illustrate, a 5,000 sq ft family owned independent restaurant with back of the house kitchen space of 1,400 square ft and a seating capacity of 140 that primarily serves ‘dine-in’ guests likely produces less food waste than a 4,000 sq. ft. facility with seating capacity for 75 guests and back of the house kitchen space exceeding 2,800 sq. ft. that relies more heavily on catering, take-out and home meal replacement (delivery).</p>	<p>The regulations are structured to place direct requirements on entities that dispose large quantities of edible food that could be recovered for human consumption. These entities are identified in the regulations as tier one and tier two commercial edible food generators. Placing direct requirements on these entities should be sufficient for California to achieve the 20% edible food recovery goal. Food facilities and food service establishments that are not tier one or tier two commercial edible food generators are exempt from SB 1383’s edible food recovery regulations because they typically have smaller amounts of edible food available for food recovery. As a result, additional generators were not added to the regulations.</p>
2009	Learakos, Mike; Waste Not OC Coalition	<p>We strongly urge either the addition of a third tier that includes any entity that is permitted to produce, manufacture, process, store, distribute or sell food OR alter Tier Two to include this definition for the following reasons. 2. Adoption of the current criteria for Tier Two generators will have an adverse effect in that it will actually weaken SB1383. The intent of the law is to reduce food waste and encourage donation of edible excess food before it becomes inedible waste. The current Tier Two definition not only provides an uneven playing field for food waste generators but contradicts the intent of the law. One benefit of food donation to an operator is the inevitable reduction of total food waste through operational changes and adjustments. Elimination of generators not meeting tier two criteria will limit the opportunity for those generators to source reduce food waste. Additionally, the food industry will see the exclusion of these operators not meeting the current Tier Two threshold as a ‘carve out’ meant to exclude the large fast food and coffee house chains while independent restaurants will be forced to participate. The</p>	<p>The regulations are structured to place direct requirements on entities that dispose large quantities of edible food that could be recovered for human consumption. These entities are identified in the regulations as tier one and tier two commercial edible food generators. Placing direct requirements on these entities should be sufficient for California to achieve the 20% edible food recovery goal. Food facilities and food service establishments that are not tier one or tier two commercial edible food generators are exempt from SB 1383’s edible food recovery regulations because they typically have smaller amounts of edible food available for food recovery. As a result, additional generators were not added to the regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>industry will view this as the state trying to discourage the recovery of 'fast food' generally thought to be 'unhealthy'. Therefore, inclusion of all permitted food waste generators allows the market for excess food to determine which food will be recovered and consumed.</p> <p>If there is not a sufficient demand or market for a specific type of excess food product (ie; fried foods or bakery items), food recovery entities will simply not accept that product meaning the generator will have to divert the product at their expense leading to voluntary production changes. By removing these operations from Tier Two, there will be a reduced impetus for generators to make production changes.</p>	
2010	Learakos, Mike; Waste Not OC Coalition	<p>We strongly urge either the addition of a third tier that includes any entity that is permitted to produce, manufacture, process, store, distribute or sell food OR alter Tier Two to include this definition for the following reasons. 3. Starbucks locations in Orange County alone (few of which would qualify as Tier Two generators based on the current criteria) have donated well over 1.5 million pounds of excess edible (primarily packaged food) since the start of their 'Food Share' program. Starbucks started the program and provided funding for trucks and drivers because they correctly identified the financial benefit of participating in the donation of excess edible food. There are universal financial benefits to excess edible food donation for any operator regardless of facility size or seating capacity. Removing the fastest growing segment of the food service industry will not only have a negative impact on the amount of food recovered but will have a profoundly negative effect both now and in the future on the amount of food waste that can be source reduced.</p>	<p>The regulations are structured to place direct requirements on entities that dispose large quantities of edible food that could be recovered for human consumption. These entities are identified in the regulations as tier one and tier two commercial edible food generators. Placing direct requirements on these entities should be sufficient for California to achieve the 20% edible food recovery goal. Food facilities and food service establishments that are not tier one or tier two commercial edible food generators are exempt from SB 1383's edible food recovery regulations because they typically have smaller amounts of edible food available for food recovery. As a result, additional generators were not added to the regulations.</p>
2011	Learakos, Mike; Waste Not OC Coalition	<p>We are concerned that Section 18985.2 (a)(1) might force jurisdictions to list a food recovery organization that is unable or incapable of handling and distributing food safely or one that fails to follow food industry standards for food safety.</p>	<p>To clarify, the requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and food recovery services operating within the jurisdiction, just that a list be created, maintained on the jurisdiction's website, and updated annually. It is at the discretion of the jurisdiction to determine the food recovery organizations and services that they feel should be included on the list.</p> <p>The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with pursuant to Section 18991.3 (b), and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping feed people in need. Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing edible food on a regular basis.</p>
2012	Learakos, Mike; Waste Not OC Coalition	<p>Waste Not OC strongly recommends that the primary focus relative to edible food recovery must be the safe handling of food and protection of public health and safety. The ability to track the source of a food borne illness outbreak rests on the ability to 'trace food product throughout the food supply chain. This critical investigative component is an essential step followed by the Center For Disease Control, US Department of Agriculture and every state in the country. By allowing a</p>	<p>While some commenters requested that the threshold be increased from 6 tons to 12 tons, other stakeholders recommended removing the threshold completely so that any food recovery organization or food recovery service that contracted with, or had a written agreement with a commercial edible food generator would be required to maintain records and report to the jurisdiction.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>food recovery organization to avoid maintaining a record of where the food was obtained, a gaping hole in the investigative process is created. It is our experience that Food recovery services or organizations that are not large enough or are incapable of maintaining a record of the source of the donated food are likely incapable of consistently handling and distributing donated food safely.</p>	<p>Another commenter further supported the recommendation to eliminate the 6-ton recordkeeping threshold by stating that the primary focus relative to edible food recovery must be the safe handling of food and protection of public health and safety. The commenter further noted that the ability to track the source of a food borne illness outbreak rests on the ability to trace food product throughout the food supply chain. By allowing a food recovery organization to avoid maintaining a record of where the food was obtained, a serious gap in the investigative traceability process is created. The commenter continued their argument by stating that in their many years of experience working as a food recovery organization, food recovery services and food recovery organizations that are not large enough or are incapable of maintaining a record of the source of the donated food are likely incapable of consistently handling and distributing donated food safely.</p> <p>CalRecycle carefully reviewed each comment that requested to increase the threshold and each comment that requested that the threshold be removed. Upon review and evaluation, a determination was made to remove the recordkeeping threshold for the following reasons. 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 maintain a record 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 the commercial edible food generator recordkeeping section of the regulations.</p> <p>Although all commercial edible food generators are required to maintain records of the food that is recovered from them, in a previous draft of the regulations, not all food recovery organizations and food recovery services were required to maintain records. In a previous 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 commercial edible food generators.</p> <p>The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>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.</p> <p>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 the total</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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% edible food recovery goal. 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.</p>
2013	Learakos, Mike; Waste Not OC Coalition	<p>Additionally, the state of California has provided grant funding specifically for the development of food waste reduction and food donation programs. One key component of an effective food recovery program is the ability to conduct effective outreach to food waste generators. Without knowing exactly which generators are donating food, the outreach efforts will be more difficult and more expensive.</p>	<p>Jurisdictions are required to identify the commercial edible food generators in their jurisdiction, monitor commercial edible food generator compliance, and also provide commercial edible food generators with education and outreach. As a result, the jurisdiction will already know who the generators are, and they will know how much food they have donated from the records that generators and food recovery organizations and food recovery services are required to maintain.</p>
2014	Learakos, Mike; Waste Not OC Coalition	<p>Finally, without an accurate record of donated food including the name of the donor, type of food and the weight of the food donated, we lose the ability to ever verify the accuracy of the data leaving data provided by the donor as the sole source. Mandatory record keeping by any and all food recovery organizations provides a 'check and balance' when needed.</p>	<p>While some commenters requested that the threshold be increased from 6 tons to 12 tons, other stakeholders recommended removing the threshold completely so that any food recovery organization or food recovery service that contracted with, or had a written agreement with a commercial edible food generator would be required to maintain records and report to the jurisdiction.</p> <p>Another commenter further supported the recommendation to eliminate the 6-ton recordkeeping threshold by stating that the primary focus relative to edible food recovery must be the safe handling of food and protection of public health and safety. The commenter further noted that the ability to track the source of a food borne illness outbreak rests on the ability to trace food product throughout the food supply chain. By allowing a food recovery organization to avoid maintaining a record of where the food was obtained, a serious gap in the investigative traceability process is created. The commenter continued their argument by stating that in their many years of experience working as a food recovery organization, food recovery services and food recovery organizations that are not large enough or are incapable of maintaining a record of the source of the donated food are likely incapable of consistently handling and distributing donated food safely.</p> <p>CalRecycle carefully reviewed each comment that requested to increase the threshold and each comment that requested that the threshold be removed. Upon review and evaluation, a determination was made to remove the recordkeeping threshold for the following reasons. 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 maintain a record 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 the commercial edible food generator recordkeeping section of the regulations.</p> <p>Although all commercial edible food generators are required to maintain records of the food that is recovered from them, in a previous draft of the regulations, not all food recovery organizations and food recovery services were required to maintain records. In a previous 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 commercial edible food generators.</p>

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9060	Levin, J., Bioenergy Assoc. of California	BAC strongly suggests the inclusion of biomethane procurement in the proposed regulations, but urges CalRecycle not to limit eligible procurement to compost and transportation fuel only. In addition, BAC urges CalRecycle not to limit eligible diversion technologies to compost and anaerobic digestion, which excludes the majority of the organic landfill waste stream.	CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
9061	Levin, J., Bioenergy Assoc. of California	The regulations should not limit bioenergy procurement to vehicle fuel use alone.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>

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			<p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
9062	Levin, J., Bioenergy Assoc. of California	The regulations should include eligible conversion technologies rather than limiting procurement to anaerobic digestion and compost.	CalRecycle disagrees with expanding the definition of renewable gas to include conversion technologies other than anaerobic digestion. The purpose of the current regulatory language is to be consistent with SB 1383 statute that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. In-vessel digestion facilities are solid waste facilities, which allows CalRecycle to verify that these facilities are reducing the disposal of organic waste. These alternative conversion methods are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.
9063	Levin, J., Bioenergy Assoc. of California	The regulations should explicitly incentivize projects that produce both bioenergy and compost as those projects will provide far greater methane reductions than either bioenergy or compost alone.	CalRecycle generally agrees that projects that maximize production of recovered organic waste products are extremely beneficial in achieving the goals required by SB 1383.
9064	Levin, J., Bioenergy Assoc. of California	The regulations should include state procurement as well as local government procurement.	Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.

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			<p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
9065	Levin, J., Bioenergy Assoc. of California	The regulations should clarify that diverted organic waste projects built prior to adoption of the regulations will qualify for diversion credit.	CalRecycle finds that grandfathering pre-existing projects as technologies that constitute a reduction in landfill disposal may not ensure methane reduction, which is the object of diversion from landfills.
9066	Levin, J., Bioenergy Assoc. of California	While BAC strongly supports the inclusion of RNG in the SB 1383 regulations, we urge CalRecycle not to limit its application to vehicle fuels. Biomethane and biogas can also be used to produce electricity, combined heat and power, renewable hydrogen for fuel cells, pipeline biogas, heating, cooling, industrial purposes, and other end uses. There is no reason to restrict the permissible end use of biomethane and biogas to vehicle fuels when individual projects' locations, access to pipelines or transmission lines, proximity to vehicle fleets, and other factors will determine what is the most beneficial and cost-effective end use of the RNG.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity.</p>

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			<p>The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
9067	Levin, J., Bioenergy Assoc. of California	<p>In other words, biomethane use is equally beneficial from a climate standpoint, whether it is used for vehicle fuel or to generate power or other energy end uses. There is no justification in science or in statute, therefore, to limit its procurement under SB 1383 to vehicle fuel use only. And, in fact, it may be more expensive and less cost-effective in some locations where use onsite for electricity, combined heat and power, or pipeline injection may be preferable.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity.</p> <p>The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>

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9068	Levin, J., Bioenergy Assoc. of California	BAC urges CalRecycle to revise Article 1 and Article 12 in the following ways to include additional energy procurement opportunities from diverted organic waste.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
9069	Levin, J., Bioenergy Assoc. of California	Add the following definition: "Renewable Electricity" is electricity which is generated from diverted organic waste using anaerobic digestion or conversion technologies consistent with Public Resource Code section 40106.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>

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			<p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
9070	Levin, J., Bioenergy Assoc. of California	<p>Add the following: (...)</p> <p>(3) Renewable electricity and combined heat and power</p> <p>(4) Pipeline biogas that meets the requirements of Health and Safety Code section 25421.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>SB 1383 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 “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</p>

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			<p>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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
9071	Levin, J., Bioenergy Assoc. of California	(C) 25.605 standard cubic feet of biomethane for pipeline injection (D) 25.605 kilowatt hours of renewable electricity.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity.</p>

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9072	Levin, J., Bioenergy Assoc. of California	<p>In several places, the proposed regulations limit eligible conversion technologies to compost and anaerobic digestion, which excludes the conversion of wood and other cellulosic waste that comprises the majority of the organic waste going to landfills. There is no legal or scientific justification for this, and very good policy reasons to broaden the definitions of eligible conversion technologies. As CalRecycle's own data shows, significant portion-likely the majority- organic landfill waste is wood and construction waste that is not digestible, meaning it is not well suited to anaerobic digestion or compost. In fact, many of the materials included in the proposed definition of "organic waste" (proposed definition 46) are non-digestible. That cellulosic waste is, however, eligible for diversion credit under Public Resource Code section 40106 if it is converted using combustion or non-combustion thermal technologies. There is no justification under state law to exclude a diversion method that is currently authorized by statute to convert the cellulosic portion of the organic waste stream.</p>	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.</p>
9073	Levin, J., Bioenergy Assoc. of California	<p>The proposed regulations themselves recognize the eligibility of biomass conversion in Article 2, section 18983.1 which defines what constitutes landfill diversion and includes PRC section 40106. It is internally inconsistent, therefore, to recognize biomass conversion is an eligible diversion technology, but not to allow procurement of biogas from that biomass conversion to qualify.</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>
9074	Levin, J., Bioenergy Assoc. of California	<p>"Renewable transportation fuel" means fuels derived from renewable gas from organic waste that has been diverted from a landfill and processed at either (a) an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, or (b) converted pursuant to Public Resources Code section 40106.</p>	<p>Note that “renewable transportation fuel” has been revised to “renewable gas” in the draft regulatory text. Regarding expanding “renewable gas” to include gas from biomass conversion, CalRecycle has revised the text to allow electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. However, for thermal and noncombustion thermal conversion technology, CalRecycle disagrees with this approach. These technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.</p>
9075	Levin, J., Bioenergy Assoc. of California	<p>Have undergone anaerobic digestion or composting, as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, or biomass conversion pursuant to Public Resource Code section 40106</p>	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
9076	Levin, J., Bioenergy Assoc. of California	Have been anaerobically digested at an in-vessel digestion operation or facility, as described in Sections 17896.8 through 17896.13, or converted to biochar through an eligible conversion process pursuant to Public Resources Code section 40106;	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO_{2e} per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
9077	Levin, J., Bioenergy Assoc. of California	The purpose of SB 1383 is to reduce short lived climate pollutant (SLCP) emissions, including methane from organic waste. BAC urges CalRecycle, therefore, to encourage projects that produce both energy and compost as they will provide far greater SLCP reductions than compost alone. The science is clear that converting diverted organic waste to bioenergy and compost provides the greatest greenhouse gas reductions of any end use. (...) CalReycle should encourage projects that prodcue bioenergy and then compost the remainder, in order to maximize SLCP reductions from diverted organic waste, which is the best way to meet the requirements of Health and Safety Code 39730.6	CalRecycle has noted the comment. This is not within the scope of the rulemaking.
9078	Levin, J., Bioenergy Assoc. of California	BAC supports the comments of other parties that recommend the proposed regulations be broadened to include state procurement and other procurement in addition to local governments. This will help achieve the requirements of SB 1383 in the most expeditious and cost-effective manner.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
9079	Levin, J., Bioenergy Assoc. of California	<p>To avoid ambiguity, the proposed regulation should explicitly grandfather eligible bioenergy and compost projects constructed prior to adoption of the regulations. The proposed regulations do not explicitly do so now and it is important to ensure that early adopters of organic waste diversion projects are not penalized.</p>	<p>CalRecycle finds that grandfathering existing projects as technologies that constitute a reduction in landfill disposal may not ensure methane reduction, which is the object of diversion from landfills.</p>
3031	Lima, T., City of Artesia	<p>It is not feasible to determine and identify individual generators that contaminate a route unless containers are checked individually. Our residential curbside program utilizes automated side loading vehicles and covered bins. Adhering to the proposed legislation would require route drivers to physically examine hundreds of containers on each route on a daily basis and additional staffing resources to issue notices and deal with upset residents. The City recommends exempting residential routes from the requirement.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3032	Lima, T., City of Artesia	<p>Despite covering a smaller geographic area than its neighboring cities, the City's franchised hauler services tens of thousands of containers every week. A quarterly route review for all routes in the City is not possible without the addition of significant staffing and funding. It is not feasible for the collection truck operators to perform this task, and complete their service routes in a timely manner. The required additional work will directly impact our franchise hauler. As a result, the City will likely see a significant price increase upon contract renewal. The City recommends to exempt residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. CalRecycle modified the regulations to allow for annual instead of quarterly.</p> <p>These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions.</p> <p>However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3033	Lima, T., City of Artesia	<p>As in the previous comment, it is a significant administrative burden to determine individual generators that contaminate a route. Routes would need to be interrupted to inspect individual bins stop by stop, resulting in slower service levels and increased costs. The City recommends exempting single-family and multi-family residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3034	Lima, T., City of Artesia	<p>This is a significant administrative, training, and logistical burden for small businesses to manage its excess edible food, if it generates any, until it can be retrieved by a food recovery organization. The burden on the City to monitor and enforce the proposed rules related to edible food generators and food recovery creates an adversarial and punitive tone to a program that intends positive and beneficial outcomes for those going hungry in our community. The City recommends allowing greater local control in developing programs to address food recovery for community benefit.</p>	<p>Regarding the comment about local control, SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. In order to meet this goal, SB 1383's regulations include requirements that jurisdictions shall implement edible food recovery programs that include critical requirements such as educating commercial edible food generators about their requirements under SB 1383, monitoring commercial edible food generator compliance, and expanding edible food recovery capacity if additional capacity is needed in the jurisdiction. These key requirements are critical to help ensure that millions of pounds of edible food stay out of landfills and to help the state achieve its 20% edible food recovery goal. For these reasons, a change to the regulatory text was not necessary.</p> <p>In addition, if the commercial edible food generator requirements were removed from the regulations, and the jurisdiction requirement to monitor commercial edible food generator compliance was also removed, then the regulations would not include any mandates for food to be recovered. Removing these critical requirements would make food recovery voluntary, which is the current situation in California. We have seen that when food recovery is voluntary millions of pounds of edible food are disposed rather than being put to the highest and best use of helping feed people in need.</p>
3035	Lima, T., City of Artesia	<p>In the current draft, a tremendous amount of effort is placed on the Enforcement and Recordkeeping sections, which will require the City to divert scarce funds and resources away from initiatives to an enforcement-based system. The City recommends reducing the burden of enforcement and record keeping so that the City may prioritize program development.</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.</p>
3323	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>First, we believe the regulations as currently drafted are overly prescriptive and potentially detrimental to current and future programs and infrastructure development. The "regulatory approach" identified assumes that a one-size-fits-all scenario will achieve the organic recycling goals outlined in SB 1383. We challenge that assumption and encourage CalRecycle staff to consider a regulatory framework with measurable performance targets based on actual capacity and available markets within given jurisdictions and communities.</p>	<p>Regarding authority to impose requirements on jurisdictions, SB 1383, in Public Resources Code Section 42652.5(a)(4) and (5), specifically allows the proposed regulations to "include different levels of requirements for local jurisdictions..." and may "include penalties to be imposed by the Department for noncompliance." Regarding necessity, please refer to the Final Statement of Reasons.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>This will require a comprehensive 2018 Waste Characterization Study, to provide an accurate baseline upon which jurisdictions can project future targets, as well as a more refined mapping tool from CalRecycle moving forward. This framework concept would allow jurisdictions, as done through AB 939, to develop their own program for organics collection and processing that is designed for their regional needs and variances.</p>	
3324	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Second, we understand that contamination is a significant hurdle in properly managing organics collection. How a jurisdiction and collection program manage this issue should be flexible and adjustable based on local needs. We believe a robust education and outreach program, supported by CalRecycle, is the best means of achieving reduced contamination in our programs. As mentioned in a previous letter, education should occur long before the customer is placing their organics in the appropriate container. The inflexible proposed regulatory language regarding how a hauler should inspect and report contamination at the curb is problematic and puts the hauler in the position of policing customers. Jurisdictions may choose to employ comparable methods in their own agreements, but this should not be mandated at the State level. Flexibility in program design will be key to meeting the goals of SB 1383. Educational outreach should commence well before the formal implementation occurs, and we would encourage the state to reconcile the various implementation challenges and dates that might be inconsistent with the timelines anticipated in SB 1383.</p> <p>Additionally, the proposed language regarding labelling requirements is short-sighted and potentially disruptive to current and future programs. The proposed requirements do not consider different container types, sizes or even new technologies (such as barcodes for scanning). Furthermore, labelling in such a manner would cost approximately \$2 more per container, which is considerable cost for program compliance. What if images need to be altered due to market shifts or programmatic changes? The prescriptive nature of the proposed language does not guarantee that we will meet programmatic goals. Jurisdictions need the flexibility to adjust their programs based on actual capacity, infrastructure, collection methods, processing methods, and market conditions.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization. This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers’ useful life or by 2036.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
3325	Lynch, K., and Pardo, V., California Refuse Recycling Council	Third, funding and incentives are crucial to building successful organics management programs at the local level, especially considering the education and oversight necessary to engage with regulated entities and the general infrastructure needed. Given the scarcity of facilities available to manage our organic waste stream, we will not be able to meet our 2020 diversion goal. For that reason, we must design a regulatory scheme that is supportive and supplements current infrastructure, not a punitive system that constrains the industry from achieving more. More financial support from the State is necessary.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that

Comment Number	Received From	Question/Comment	Response(s)
			<p>was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3326	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Finally, it is essential that these regulations serve to strengthen and empower collection programs if we are to achieve our ambitious diversion targets. There is no assurance that the prescriptive language proposed will get us to our goals. The language is short-sighted and fails to capture future innovations in processing technology. In fact, some facilities currently managing organics do not fall under the identified approved facility list. Essentially, as written, these regulations would cause some facilities to no longer be a viable management option, further harming the little infrastructure currently available.</p>	<p>Comment noted. The commenter is expressing an opinion on the overall scope and model of the regulations. CalRecycle has determined the regulatory model used is necessary to achieve the ambitious organic waste diversion goals in the statute that were mandated on a very short timeline.</p>
3327	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>However, we feel strongly that the proposed language does more harm than good in its restrictive nature and failure to see beyond the current paradigm. Jurisdictions need the flexibility to design programs based on specific needs. We urge CalRecycle to initiate this program with a "good faith effort" approach to foster participation and outreach and build on a familiar and successful framework. This regulatory process must be supported by an accurate baseline, based on the 2018 Waste Characterization Study, in order to appropriately analyze the purpose of SB 1383 in reducing methane emission and not build the framework on a flawed data base and one that does not accurately measure the results of the anticipated regulatory system.</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
3328	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 4, lines 50-52 We remain concerned that the definition of Organic Waste is too broad and that not all organic feedstocks are created equal and have varying management techniques. Textiles, for example, cannot be readily accepted and processed at compost facilities. We also question the inclusion of fiber and request a more detailed definition of fiber. Does this include soiled-paper? How does fiber differentiate from traditional paper recyclables? What about the inclusion of manure and biosolids, two material types that have traditionally been managed by land application? This definition fails to capture the real-life management differences required for these varying materials. Feedstocks also have varying methane generating potential. Overall, we are concerned that the Organic Waste definition is confusing to the public who will believe their collection system should accept all these materials in one bin. Infrastructure managing certain material feedstocks, such as food scraps,</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>Comment noted. The regulatory text is specifically designed to prioritize or deprioritize certain types of organic waste for specific requirements. For example, organic textiles and carpet, are not subject to the same collection requirements as other types of organic waste. The prioritization reflects the portion of organic waste these materials constitute, which is small, and therefore their total methane generation potential is smaller.</p>

Comment Number	Received From	Question/Comment	Response(s)
		requires more stringent regulatory obligations and should be incorporated into capacity planning for local jurisdictions.	
3329	Lynch, K., and Pardo, V., California Refuse Recycling Council	Page 4, lines 43-46 There is no definition for "high diversion mixed waste processing facility". This facility needs to be defined.	A change to the regulatory text is not necessary. "The term" high diversion mixed waste processing facility" is not used in the proposed regulations. The term "high diversion organic waste processing facility," which is used and defined in Section 18982(a)(33). The term "High Diversion Organic Waste Processing Facility" refers to transfer/processing facilities that meet the 50% by 2022 or 75% by 2025 organic waste recovery efficiency standard for a mixed waste organic (MO) collection stream. The 50/75% refers to recovery of organic waste after processing of material from the MO collection stream.
3330	Lynch, K., and Pardo, V., California Refuse Recycling Council	Page 5, lines 7-8 What do you mean by, "has been processed by landfill disposal" as part of the definition for "residual organic waste"? How would residual material containing organics from other facilities be defined?	The comment is not relevant for the following reason: The commenter has incorrectly quoted the definition for "Residual organic waste". Below is the actual definition from the proposed regulation text. In this regard, the second question in the comment is irrelevant. (63) "Residual organic waste" means waste that remains after organic waste has been processed which is then sent to landfill disposal.
3331	Lynch, K., and Pardo, V., California Refuse Recycling Council	Page 5, lines 26-29 Commencing January 1, 2020, the use of green material as alternative daily cover does not constitute diversion through recycling per AB 1594. We note that the regulation language expands on this law and proposes that any organic waste used as ADC, AIC, or beneficial reuse will no longer count toward diversion. We question whether these regulations should be used to redefine the definition of disposal. We believe that organic waste used for beneficial reuse at the landfill, such as slope stabilization or revegetation, is a viable diversion strategy. In fact, beneficial reuse in this fashion is akin to Caltrans using this material for a similar purpose.	SLCP proposed regulations is not expanding on AB 1594 or redefining the definition of disposal for purposes of that law. The proposed regulations allow for organic waste used at a landfill as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping if the material is used in a manner that complies with Section 18983.1(b)(5).
3332	Lynch, K., and Pardo, V., California Refuse Recycling Council	Page 5, lines 31-42 It is important to note that land application is not defined as a "reduction of landfill disposal," despite it being a primary management technique for biosolids, manure and compostable materials. Nor is land application defined as "landfill disposal" in the section above. This issue must be resolved moving forward. Furthermore, the facilities listed do not capture all the methods used today in managing organics. In fact, operations that qualify as "recycling centers rarely, if at all, manage organic material. Most of these facilities are buyback centers managing BCRP containers. This language is restrictive and does not consider present and future facilities process material for animal feed, as one example. End of the day, these regulations should encourage more development, not shutter facilities currently diverting and managing organics.	CalRecycle concurs that maintaining flexibility for other recovery processes, not specifically identified in section 18983.1(b), which may constitute a reduction of disposal of organic waste and can achieve equivalent greenhouse house gas reduction that meets or exceeds the baseline of 0.30 MTCO2e per short ton, the proposed regulations include Section 18983.2 which provides this pathway. In response to stakeholder comments, Section 18983.1(b)(6) was added to clarify when the land application of organic materials counts as a reduction in landfill disposal. More specifically, section 18983.1(b)(6)(A) address the requirements for green waste applied to land, Section 18983.1(b)(6)(B) addresses biosolids applied to land, and Section 18983.1(b)(6)(C) addresses digestate applied to land. Section 18983.1 (b)(1) – (b)(7) clarifies what type of various activities and technologies count as a reduction in landfill disposal. Subdivision (b)(7) specifies that the lawful use of organic waste as animal feed constitutes a reduction in landfill disposal since it directly supports the state's effort 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. Additionally, Section 18983.2 provides a pathway for determining if a technologies not specifically listed within these

Comment Number	Received From	Question/Comment	Response(s)
			regulations can be deemed to constitute a reduction in landfill disposal of organic wastes to ensure flexibility and to not restrict any viable options.
3333	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 6-7, Source-separated Organic Waste Collection Service</p> <p>We take issue with this entire section in its prescriptive and restrictive nature. How a jurisdictional program collects material and labels collection containers should be determined at the local level. Some communities, for example, have already invested in split-carts to collect organic waste. This is not a one-size fits all scenario. This section alone could incur significant costs and negatively impact collection programs already in place. We suggest CalRecycle offer recommended guidelines to jurisdictions that can be used to inform program development.</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.</p>
3334	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 7-8, Contamination of Source-Separated Organic Waste</p> <p>We believe jurisdictions should have flexibility in program design to address contamination management and enforcement. A command and control regulatory approach is misguided, especially given the subjective nature of the proposed language. Last year a Seattle judge ruled a new ordinance that allowed garbage collectors to look through customers' bins, to make sure food scraps were not going into the garbage, as "unconstitutional and void." The judge wrote in her decision that "the city could not explain how inspectors can compute the 10 percent limit without searching through a resident's garbage bags." We understand proposed regulatory language is for the organics bin, not garbage, but the language forces haulers to share personal customer information to jurisdictions if contaminated waste is found, which includes residential information. We are concerned about privacy violations and the State forcing haulers to police customers. Also, this methodology is also not statistically valid and will not necessarily lead to reduced contamination. This could also pose a health and safety risk to drivers if they are expected to touch waste material. To address contamination issues, CalRecycle should be supporting a comprehensive statewide education and outreach plan to apprise the public of this important change in law.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization. CalRecycle is providing educational materials to local jurisdictions and conducting a statewide educational campaign.</p>
3335	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 8, Mixed Waste Organic Collection Services</p> <p>CRRC members across the State already engaged in organics collection employ several processing methods, including mixed-waste processing. In some cases, both source-separated materials and mixed-waste materials are managed in the same facility, supporting even higher diversion percentages than if source-separated material alone was managed. We are very concerned about the language that prohibits mixed-waste processing infrastructure to be built post 2020 with no proper analysis or explanation. This regulatory package should not be a vehicle for the CalRecycle to pick winner and loser technologies, especially when the future of these technologies is unknown. We support programs built on clear diversion targets for jurisdictions based on their feedstocks, processing capacity, and market access.</p>	<p>Stakeholder comments regarding mixed waste processing facilities span a wide spectrum -- from allowing existing facilities to continue to operate even if they do not meet higher diversion standards, to establishing a waiver process for allowing such facilities to continue to operate for 10 to 15 years beyond the target dates in statute or the effective date of the regulations respectively. As currently written, the regulations allow some time for a non-compliant facility to come into compliance; i.e., at a minimum, it will be over 6 months after the regulations are in effect before sufficient information is available to determine whether a facility has been out of compliance for two consecutive quarters. When this is the case, then a NOV would be issued to the jurisdiction(s) using that facility, requiring compliance within 90 days. The department may extend this period to a total of 180 days, after which it may issue a Corrective Action Plan for up to 24 months. This means that it will be at least 2 and possibly 3 years after the effective date of the regulations before the jurisdiction is not allowed to use a non-compliant facility. This would give facility operators several years in which to make necessary operational changes to come into compliance.</p> <p>During the informal rulemaking period, CalRecycle responded to many stakeholder requests for additional flexibility to allow these mixed waste facilities to continue operating beyond the effective date of the regulations. As noted in the ISOR, Sections 18984.2 and 18984.3 allow alternatives to providing a three-container source-separated organic waste collection service. Under these sections, jurisdictions are allowed to require their generators to use a service that does not provide generators 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 that are specified in Section 17409.5.1. 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, Sections 18984.2 and 18984.3 provide the flexibility requested and lay out minimum standards for two-container and unsegregated single-container organic waste collection services.</p> <p>Regarding the proposed exemption for one facility, CalRecycle disagrees in principle with the concept of carving out exemptions for specific facilities or specific jurisdictions on the basis of regulatory criteria that only fit that situation. If CalRecycle allowed this for one facility or one jurisdiction, then there would be no justification for not allowing similar proposals. This effectively invalidates the ability to create an even playing field with a single statewide regulation designed to achieve a statutory target. This could result in an unknown but conceivably large number of facilities and jurisdictions being exempted, with associated negative impacts on the ability to reach the mandated statewide organics disposal reduction goals.</p>

Comment Number	Received From	Question/Comment	Response(s)
3336	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 8, Waivers</p> <p>We would like to see self-executing language whereby if a jurisdiction finds that any type of organic waste cannot feasibly be recycled, it may temporarily go to the landfill. This is important for health and safety reasons as the organic waste must go to the landfill if it has no other safe and viable alternative. Also, there is no information regarding the timeline or process for such a waiver, nor why a waiver may be disapproved by Cal Recycle.</p>	<p>CalRecycle has revised Section 18984.12(b)(2) and Section 18984.12(d)(6) in response to this comment to clarify that the department shall approve or deny a request within 90 days. Section 18996.2 includes all circumstances outside of a jurisdiction's control, including the inability to identify a facility with sufficient capacity to process the materials. The regulations require a jurisdiction to demonstrate that extenuating circumstances exist and that it has made a "substantial effort" which means that it has taken all practicable actions to comply.</p>
3337	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 9, Organic Waste Recycling and Education Outreach</p> <p>Education and outreach is a critical component to meeting our statewide diversion goals. We support education and outreach and conveying a statewide message about the law and why we are working to divert more organics from CA landfills. While we support the environmental benefits associated with this effort, siting and permitting of compost facilities has significant challenges in terms of air emissions, especially for those located in Federal nonattainment air districts. Relating the public health, safety and environmental impacts associated with the disposal of organic waste fails to address comparable issues we face in building organics management infrastructure. A Statewide public education and outreach initiative could help foster support for these facilities.</p>	<p>CalRecycle is providing educational materials to local jurisdictions and conducting a statewide educational campaign.</p>
3338	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 10-11, State Entities and State Facilities</p> <p>We are pleased to see language including State entities and facilities in these regulations. Walking the walk will be crucial in promoting statewide acceptance of organics diversion.</p>	<p>The comment is in support of the proposed regulations, which require non-local entities to comply with SB 1383.</p>
3339	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 12, Organic Waste Recycling Standards and Policies</p> <p>There are circumstances where a facility may no longer be able to accept organic material, therefore forcing a generator to take their material to another facility. The lower recovery rate language is confusing and does not account for extenuating circumstances where a facility may be unable to accept organic waste. This might inadvertently send more organic matter to the landfill if a facility is considered to have a lower recovery rate than the unavailable facility. We recommend this language be removed.</p>	<p>A change to the regulatory text is not necessary. The language referenced was included in a previous version of the regulatory text and has since been revised.</p>
3340	Lynch, K., and Pardo, V., California Refuse Recycling Council	<p>Page 14, Planning by Cities and Counties</p> <p>We feel strongly that without accurate baseline information, city and counties will have a difficult time planning for organics development. We believe planning should be based off the 2018 Waste Characterization Study as the 2014 study was flawed and does not provide enough feedstock detail for jurisdictions. We also encourage CalRecycle to consider that many local government staff have never sited or permitted a solid waste facility in their lifetime. Support and guidance from the State is critical in getting the additional 200 facilities needed in place by 2025.</p>	<p>2014 was selected because the organic waste diversion targets in SB 1383 are based on a statutory 2014 baseline. 2018 will not provide proper baseline information.</p>
3341	Lynch, K., and Pardo, V., California	<p>Page 16-17, Jurisdiction Inspection and Enforcement Requirements</p> <p>We note that regulated entities include all organic waste generators and that this section proposes a list of all regulated entities. Per the definition, this would include</p>	<p>A change to the regulatory text is not necessary. Section 18995.1 states the jurisdiction shall generate a record for compliance reviews conducted that includes a list of accounts reviewed. A compliance review shall be conducted for all solid waste collection accounts for commercial</p>

Comment Number	Received From	Question/Comment	Response(s)
	Refuse Recycling Council	the residential sector. Is that your intent? Also, what resources will jurisdictions get to enforce and inspect thousands of businesses? This will be a continual and substantial cost for communities moving forward.	businesses that are subject to its authority and generate two cubic yards or more per week of solid waste, including organic waste. If a jurisdiction is conducting compliance review on its residential generators to comply with organic waste generator requirements set forth in Section 18984.9(a), this record would include residential generators.
3342	Lynch, K., and Pardo, V., California Refuse Recycling Council	Page 19-22, Enforcement and Penalties There is general confusion around CalRecycle's role in enforcement for the purposes of this regulation. According to the proposed language, the Department can notice all "regulated entities" and possibly administer penalties for noncompliance. As previously indicated, the proposed regulations include subjective contamination tracking with no statistical reliability. We challenge the assumption that this methodology is sound and enforceable. We also question why enforcement at the local level is being diluted by State oversight. It was our understanding that CalRecycle would have enforcement authority over jurisdictions, and that jurisdictions would have enforcement over regulated entities in their programs.	A change to regulatory text is not necessary. The California legislature has recognized the need for the Department to have oversight and enforcement authority over jurisdictions who have a role in carrying out organic recycling requirements to meet the states mandates. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Also, it is necessary that all entities that are regulated under this Chapter comply with the minimum standards to meet the state mandates. If a jurisdiction is not fulfilling its obligation to enforce the requirements, the Department may intervene and take enforcement action.
3343	Lynch, K., and Pardo, V., California Refuse Recycling Council	Conclusion This concludes our addendum comments regarding the proposed regulatory text for SB 1383. We are not ready to comment on specific methodology for contamination testing as CRRC members are still reviewing the language. We believe that contamination should be dealt with at the local level through their own processing agreements.	Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels. CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change

Comment Number	Received From	Question/Comment	Response(s)
			<p>would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
1127	Macy, Jack San Francisco Department of the Environment	we are concerned that the reporting requirements are more burdensome for source separation, with the three-container compliance efforts greater than for two-container, which is more than for just a one-container programs.	<p>A change to the regulatory text is not necessary. The reporting requirements listed in Section 18994.1 for Article 3 requires a jurisdiction conducting contamination monitoring to report information related to route review, notices, violations, education and results of waste characterizations studies related to contamination found. This reported information is used to verify that the jurisdiction is implementation the contamination monitoring requirements. Jurisdiction using a one-container collection service only have to report the Recycling and Disposal Reporting System number for each high diversion organic waste processing facility it utilizes. Thought the three/two container collection services has more items to be reported, the one-container collection service has to meet high standards of a high diversion organic waste processing facility as outlined in Section 18982(33). The amount of reporting is irrelevant as the requirement for the services are different.</p> <p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.</p>
1128	Macy, Jack San Francisco Department of the Environment	This concern about incentivizing mixed waste processing over source separation also comes from the removal of a sunset date for mixed waste processing. We believe mixed waste processing should only be allowed if the jurisdiction has implemented mandatory source separation and that any exemptions to this rule should only be on a case-by-case basis reviewed by CalRecycle.	<p>Stakeholder comments regarding mixed waste processing facilities span a wide spectrum -- from allowing existing facilities to continue to operate even if they do not meet higher diversion standards, to establishing a waiver process for allowing such facilities to continue to operate for 10 to 15 years beyond the target dates in statute or the effective date of the regulations respectively. As currently written, the regulations allow some time for a non-compliant facility to come into compliance; i.e., at a minimum, it will be over 6 months after the regulations are in effect before sufficient information is available to determine whether a facility has been out of compliance for two consecutive quarters. When this is the case, then a NOV would be issued to the jurisdiction(s) using that facility, requiring compliance within 90 days. The department may extend this period to a total of 180 days, after which it may issue a Corrective Action Plan for up to 24 months. This means that it will be at least 2 and possibly 3 years after the effective date of the regulations before the jurisdiction is not allowed to use a non-compliant facility. This would give facility operators several years in which to make necessary operational changes to come into compliance.</p> <p>During the informal rulemaking period, CalRecycle responded to many stakeholder requests for additional flexibility to allow these mixed waste facilities to continue operating beyond the effective date of the regulations. As noted in the ISOR, Sections 18984.2 and 18984.3 allow alternatives to providing a three-container source-separated organic waste collection service. Under these sections, jurisdictions are allowed to require their generators to use a service that does not provide generators with the opportunity to separate their organic waste for recovery at</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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 that are specified in Section 17409.5.1. 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, Sections 18984.2 and 18984.3 provide the flexibility requested and lay out minimum standards for two-container and unsegregated single-container organic waste collection services.</p> <p>Regarding the proposed exemption for one facility, CalRecycle disagrees in principle with the concept of carving out exemptions for specific facilities or specific jurisdictions on the basis of regulatory criteria that only fit that situation. If CalRecycle allowed this for one facility or one jurisdiction, then there would be no justification for not allowing similar proposals. This effectively invalidates the ability to create an even playing field with a single statewide regulation designed to achieve a statutory target. This could result in an unknown but conceivably large number of facilities and jurisdictions being exempted, with associated negative impacts on the ability to reach the mandated statewide organics disposal reduction goals.</p>
1129	Macy, Jack San Francisco Department of the Environment	Section 18981.2 (a) Implementation Requirement for Jurisdictions Allow situations like CCSF where we have an exclusive permitted hauler that is not under contract or MOU, but is regulated by city through rate setting process and would be the city's designee to share in the responsibilities of these regulations.	Comment noted. The regulations allow for jurisdictions to designate a public or private entity to fulfill certain of its responsibilities.
1130	Macy, Jack San Francisco Department of the Environment	18982 (a) (48) The organic waste generator definition should clearly allow for a collection service account or customer to be considered a generator and not have every individual within a business or residential account be considered separate generators. Without this clarification, much of the education and reporting requirements would be or seem prohibitively impractical and onerous.	A change to the definition is unnecessary. To clarify, the education requirements in Section 18982(a)(48) allow for jurisdictions to generally target generators but contains no obligation to contact each and every generator within a jurisdiction. For example, a jurisdiction could comply through print media such as magazine or newspaper advertising, social media postings, flyers on collection containers or other means designed to reach generators in the jurisdiction. Supporting this intent are the recordkeeping provisions in Section 18985.3(a), which states the jurisdiction shall include all relevant documents supporting its compliance with the requirements of the chapter, including flyers, brochures, newsletters, invoice messaging, and website and, social media postings and recognizes mass distributions such as bill inserts and mailings.
1132	Macy, Jack San Francisco Department of the Environment	18984.1(b) Only allow black or mixed waste container material to be processed to meet organics recovery requirements if an existing green container service that accepts exclusively a majority of organics including food (given that generates methane more rapidly in a landfill than other organics) is mandated with reasonable compliance efforts by the jurisdiction, unless a case-by-case waiver has been given by CalRecycle. Otherwise, a jurisdiction could have a nominal source separated organics collection with low recovery resulting in most organics being allowed and/or ending up into the black container for mixed waste processing.	CalRecycle has determined that this is not necessary. All organic waste collection service options for jurisdictions are premised on jurisdictions enforcing prohibited container contaminants requirements to ensure that organic waste ends up in the correct container for purposes of diversion in order to avoid low recovery.
1133	Macy, Jack	18984.1 Having most of the organics recovered from a mixed waste container will have the potential for higher contamination and greater negative impact on soil, water, markets and potentially more organics being disposed that with mandated	A change to the regulatory text is not necessary. The regulations are designed to ensure that any combination of collection systems and technologies achieves sufficiently high diversion to enable the state to meet the 75% mandate. CalRecycle acknowledges that when organic waste is mixed

Comment Number	Received From	Question/Comment	Response(s)
	San Francisco Department of the Environment	source separated collection of organics. Source separation needs to be prioritized to facilitate higher levels of organics recovery and quality of organic products for maximum climate and environment benefit/protects and sustainable markets.	<p>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).</p> <p>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, allowing for mixed waste processing with performance metrics provides the flexibility requested and lays out minimum standards for an unsegregated single-container organic waste collection service.</p> <p>The regulations clarify the standards that a receiving facility must meet in order to be considered a high-diversion organic waste processing facility that a jurisdiction providing an unsegregated single-container collection service could transport gray container waste to.</p>
1134	Macy, Jack San Francisco Department of the Environment	1894.3 (a) We are concerned about removal of sunset date for mixed waste processing. As noted above for Section 18984, mixed waste processing of unsegregated single-container collection should only be allowed if the jurisdiction has implemented mandatory source separation or any exemptions or waivers to this rule should only be on a case by case basis reviewed by CalRecycle. Otherwise, this section undermines the need to prioritize source separation and recovering higher organics for reduced potential impacts on the environment and sustainable markets. W	<p>Stakeholder comments regarding mixed waste processing facilities span a wide spectrum -- from allowing existing facilities to continue to operate even if they do not meet higher diversion standards, to establishing a waiver process for allowing such facilities to continue to operate for 10 to 15 years beyond the target dates in statute or the effective date of the regulations respectively. As currently written, the regulations allow some time for a non-compliant facility to come into compliance; i.e., at a minimum, it will be over 6 months after the regulations are in effect before sufficient information is available to determine whether a facility has been out of compliance for two consecutive quarters. When this is the case, then a NOV would be issued to the jurisdiction(s) using that facility, requiring compliance within 90 days. The department may extend this period to a total of 180 days, after which it may issue a Corrective Action Plan for up to 24 months. This means that it will be at least 2 and possibly 3 years after the effective date of the regulations before the jurisdiction is not allowed to use a non-compliant facility. This would give facility operators several years in which to make necessary operational changes to come into compliance.</p> <p>During the informal rulemaking period, CalRecycle responded to many stakeholder requests for additional flexibility to allow these mixed waste facilities to continue operating beyond the effective date of the regulations. As noted in the ISOR, Sections 18984.2 and 18984.3 allow alternatives to providing a three-container source-separated organic waste collection service. Under these sections, jurisdictions are allowed to require their generators to use a service that does not provide generators 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 that are specified in Section 17409.5.1. 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, Sections 18984.2 and 18984.3 provide the flexibility requested and</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>lay out minimum standards for two-container and unsegregated single-container organic waste collection services.</p> <p>Regarding the proposed exemption for one facility, CalRecycle disagrees in principle with the concept of carving out exemptions for specific facilities or specific jurisdictions on the basis of regulatory criteria that only fit that situation. If CalRecycle allowed this for one facility or one jurisdiction, then there would be no justification for not allowing similar proposals. This effectively invalidates the ability to create an even playing field with a single statewide regulation designed to achieve a statutory target. This could result in an unknown but conceivably large number of facilities and jurisdictions being exempted, with associated negative impacts on the ability to reach the mandated statewide organics disposal reduction goals.</p>
1135	Macy, Jack San Francisco Department of the Environment	Section 18984.3 (a) We recommend adding that a jurisdiction may comply with the requirements only if a mixed solid waste collection system was in place on or before September 19, 2016 to allow those that have already invested in the infrastructure to continue using it to meet mandated diversion rates.	CalRecycle considered this concept in the initial draft regulatory text but rather than setting an earlier deadline instead established performance metrics for high-diversion facilities. Further the regulations cannot take effect prior to 2022, establishing an earlier cutoff would be in conflict with the intent of the statute.
1136	Macy, Jack San Francisco Department of the Environment	Section 18984.5 - While we strive to have all route bins regularly visually inspected on the surface and tagged for contamination as needed by drivers during collection, however, to do a more thorough inspection for contamination even for randomly selected bins as this section requires would be involve significant additional dedicated staff time. Doing this quarterly for all routes is very burdensome and unnecessary, even yearly for all routes would be significant additional staff time, but more reasonable depending on number of containers inspected.	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. CalRecycle modified the requirement to annual.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
1137	Macy, Jack San Francisco Department of the Environment	Section 18984.5 (b) - Additionally, CalRecycle must allow for more flexibility and discretion for jurisdictions to enforce contaminant restrictions. The current language could require jurisdictions to spend significant staff time enforcing strict standards on minimal contamination events or illegally dumped contaminants.	Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a

Comment Number	Received From	Question/Comment	Response(s)
			<p>jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
1138	Macy, Jack San Francisco Department of the Environment	Section 18984.5 (c)Even more onerous is having to report this detailed information for each container each time contamination has been found, especially on residential routes of hundreds of customers per day. This could create a disincentive for a collector to identify contamination, notify customers, report to the jurisdiction or implement three or two container collection programs vs single container program. A more reasonable and less onerous approach would be to report the number of contamination notices given and possibly if a customer has received 3 or more notices in a row to provide the address of that violator and action taken	A change to the regulatory text is not necessary. Section 18984.5(c) is deleted in the latest version.
1139	Macy, Jack San Francisco Department of the Environment	Section 18984.5 (c)Allow higher-level summary information and remove the requirement to provide records of each contact.	A change to the regulatory text is not necessary. Section 18984.5(c) is deleted in the latest version.

Comment Number	Received From	Question/Comment	Response(s)
1140	Macy, Jack San Francisco Department of the Environment	Section 18984.1 Property and Business Owner Responsibilities (b)(1) Clarify the timeframe during which property owners shall provide information to new tenants. Allow more flexibility to provide before move-in or within 14 days.	CalRecycle revised Section 18984.10(b)(1) in response to this comment. This change is necessary to specify the time frame for providing information, recognizing that the actual date of occupancy can vary.
1141	Macy, Jack San Francisco Department of the Environment	Section 18984.11 Waivers and Exemptions Granted by a Jurisdiction (a)(1)(B) Annual verification of service levels for businesses granted waivers is not a good use of enforcement energy given that the business has already been identified to generate a small amount of organic material. Revise to be at least every five years.	CalRecycle has revised the verification period to five years in response to this comment. Thank you for the support comment. This comment is in support of the current language.
1142	Macy, Jack San Francisco Department of the Environment	Section 18984.6 Recordkeeping Requirements for Container Contamination Minimization This level of record keeping for all written notices, even for just tags left on containers, is very onerous and burdensome requiring additional staff time and data management systems that jurisdictions may not have and may create a disincentive to implement three or even two container source separation collection programs if a mixed waste organics processing facility becomes available.	A change to the regulatory text is not necessary. The purpose of conducting route reviews is to identify, educate and discourage generators for container contamination. Tracking the notices/tags left on containers is essential and allows the jurisdiction to identify repeat offenders. The Department requires this level of recordkeeping to verify that the jurisdiction is conducting the route reviews and proactively minimizing contamination.
1143	Macy, Jack San Francisco Department of the Environment	Section 18984.8 Container Labeling Requirements (c) For labels, change to require "... which type of materials are accepted in that container", as it is impractical to list or show all materials accepted or prohibited, and even showing all types of materials prohibited can make for a hard to read and less effective label.	<p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>

Comment Number	Received From	Question/Comment	Response(s)
1144	Macy, Jack San Francisco Department of the Environment	Section 18984.9 Organic Waste Generator Requirements (b) (1) Given that used paper towels are accepted in San Francisco's composting program, businesses are encouraged to offer a receptacle for paper towels in restrooms. Typically, public restrooms also have small receptacles for other discards in each individual stall. We recommend removing the exclusion of restrooms from the requirements of organic waste generators.	Section 18984.9(b)(1) requires placement of containers in all areas except restrooms but does not prohibit a jurisdiction from also placing in containers in restrooms. Section 18990.1(a) already indicates that a jurisdiction can implement more stringent requirements. Therefore, if a jurisdiction's programs support composting certain types of materials discarded in restrooms, the jurisdiction is free to add these to its program.
1145	Macy, Jack San Francisco Department of the Environment	Section 18984.14. Recordkeeping Requirements for Waivers and Exemptions (a) Include the option to provide information for generators or account holders. Mixed use or shared service situations make identifying the specific generators difficult. The account holder will be the waiver holder in this case.	To clarify, the education requirements generally allow for jurisdictions to target generators but contains no obligation to contact each and every generator within a jurisdiction. For example, a jurisdiction could comply through print media such as magazine or newspaper advertising, social media postings, flyers on collection containers or other means designed to reach generators in the jurisdiction. Supporting this intent are the recordkeeping provisions in Section 18985.3(a), which states the jurisdiction shall include all relevant documents supporting its compliance with the requirements of the chapter, including flyers, brochures, newsletters, invoice messaging, and website and, social media postings and recognizes mass distributions such as bill inserts and mailings.
1146	Macy, Jack San Francisco Department of the Environment	Section 18985.1 (a) It is unnecessarily onerous to provide direct information to all generators every year. For a jurisdiction like ours with over 165,000 generator accounts that could cost upwards of \$250,000 a year. We recommend that detailed information provided to all generators be required every 3 years.	This provision is necessary as written so that generators understand the purpose behind the law, how to recycle, and the impacts of disposal. This information does not have to be included on every educational piece, but rather must be provided once per year. In addition, CalRecycle added Article 17 to provide that a jurisdiction will be waived from specified articles and sections in the regulations if they can meet performance requirements specified in this new article.
1147	Macy, Jack San Francisco Department of the Environment	Section 18985.1 This information, at least items (2) through (6), should be also be required for one-container collection as it would be beneficial and offer opportunities to reduce emissions, and if it is not required then it could create a disincentive for jurisdictions to pursue three or two-container service and instead pursue one-container collection to avoid cost of this education.	CalRecycle revised Section 18985.1(d) to provide consistency in required education and outreach requirements for the three different container service options.
1148	Macy, Jack San Francisco Department of the Environment	Section 18985.1 Items 3, 4, and 5 should be optional pieces of information. Information overload is a real factor in communicating requirements, and this sort of information may be more effectively shared in other avenues than an annual notice to generators.	This provision is necessary as written so that generators understand the purpose behind the law, how to recycle, and the impacts of disposal. This information does not have to be included on every educational piece, but rather must be provided once per year. In addition, CalRecycle added Article 17 to provide that a jurisdiction will be waived from specified articles and sections in the regulations if they can meet performance requirements specified in this new article.
1149	Macy, Jack San Francisco Department of the Environment	Section 18985.1 (b) We don't currently nor have a way to identify self-haulers. Include language "to the extent that a jurisdiction has information about self-haulers."	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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.

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.
1150	Macy, Jack San Francisco Department of the Environment	Section 18985.1 (f) It will be hard to identify all the individual generators who would qualify as a “Limited English Speaking Household” or “linguistically isolated” to directly provide them educational information translated to them. We do have materials translated on our website in the languages that 6% or more of the population speak at home and can provide a website links to that translated information as part of the education to all generators. Our communications rely heavily on images. Amend language to read “shall provide the information required by this section in a language or languages and/or graphics...”	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
1151	Macy, Jack San Francisco Department of the Environment	Section 18985.3 Recordkeeping Requirements for a Jurisdiction’s Compliance with Education and Outreach Requirements (a) (2)-(3) This level of record keeping, especially of every direct contact and copies of all electronic communication, including all social media posts and by all dates, of what was given to every generator is very onerous and costly and unnecessary to show reasonable compliance efforts. Jurisdictions should be able to summarize education and outreach efforts, showing copies of education materials with possibly some samples of social media, and not have to show a detailed record by date.	CalRecycle has determined the level of recordkeeping requirements are necessary to measure compliance with the regulations.
1152	Macy, Jack San Francisco Department of the Environment	Section 18986.1 Non-Local Entities Requirements (c)(1) The restrictions on items in the green and blue containers should be separated. The following shall not need to be collected in the green container: textiles, carpets, plastic coated paper, and human or pet waste. The following shall not need to be collected in the blue container: textiles, carpets, and human or pet waste. San Francisco is among several communities that recover plastic coated paper in the blue recycling container.	Thank you for this comment. The language in Section 18986.1 was revised to be parallel with Section 18984.1 and 18984.2. CalRecycle clarified in the regulations that plastic coated paper could be collected for diversion.
1153	Macy, Jack San Francisco Department of the Environment	Section 18989.1 (a) Compliance with CalGreen is likely to not be sufficient to sustain let alone increase the diversion of wood from landfills and CalRecycle should consider requiring jurisdictions to find ways to incentivize and/or require deconstruction for higher value recovery and reuse of wood.	Comment noted. CalGreen is not the only requirement relative to recovery and reuse of wood in the regulation.
1154	Macy, Jack San Francisco Department of the Environment	Section 18991.2 Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program (a)(1) It will be onerous for our city to keep track of and document activities with all individual edible food generators, with nearly 5,000 food establishments that is more per capita than any US city, especially it they have arrangements with edible recovery organizations.	A change to the regulatory text was not necessary because without the recordkeeping requirements for jurisdictions, CalRecycle will not be able to verify if a jurisdiction is complying with SB 1383’s Jurisdiction Edible Food Recovery Program requirements. The recordkeeping requirements are a critical enforcement mechanism. For that reason, they were not removed from the regulatory text. CalRecycle would also like to clarify that not all food establishments are subject to SB 1383’s commercial edible food generator requirements. Only the entities identified as tier one and tier two commercial edible food generators are required to comply.

Comment Number	Received From	Question/Comment	Response(s)
1155	Macy, Jack San Francisco Department of the Environment	Section 18991.4 Record Keeping Requirements for Commercial Edible Food Generators (a)(3)(D) This level of quantification and recording will be very burdensome to generators and could be a disincentive for them to redistribute edible food, unless a relatively simple method is used to estimate quantities based on average volumes and types of food donated. This comment also applies to Edible Food Recovery Services in Section 18991.5.	A change to the regulatory text was not necessary because without the recordkeeping requirements for commercial edible food generators, jurisdictions will not be able to verify if a commercial edible food generator is complying with SB 1383's commercial edible food generator requirements. The recordkeeping requirements are a critical enforcement mechanism. For that reason, they were not removed from the regulatory text.
1156	Macy, Jack San Francisco Department of the Environment	Section 18992.1 Organic Waste Recycling Capacity Planning (a)(1) Change to (A) or (B) to avoid an unnecessary burden.	A change to the regulatory text is not necessary because the regulations already provide a choice between subsections A or B.
1157	Macy, Jack San Francisco Department of the Environment	Section 18992.1 (b)(3) I assume this requirement is only for locations within the county.	A change to the regulatory text is not necessary because it appears that this comment pertains to (a)(3), as there is no (b)(3). If the comment is for (a)(3), no change is necessary because CalRecycle does intend that this include locations outside the county if warranted.
1158	Macy, Jack San Francisco Department of the Environment	Section 18992.2 Estimating the amount of edible food disposed will be challenging and onerous if detailed assessments or audits at each or samples generator is required. Being able to use a standard CalRecycle characterization of % of edible food by generator and multiplying that by number of generators minus estimates of recovered food from recovery organizations would be more practical.	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. CalRecycle also intends on providing additional resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
1159	Macy, Jack San Francisco Department of the Environment	Section 18992.2 Estimating the amount of edible food disposed will be challenging and onerous if detailed assessments or audits at each or samples generator is required. Being able to use a standard CalRecycle characterization of % of edible food by gene	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. CalRecycle also intends on providing additional resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
1160	Macy, Jack San Francisco Department of the Environment	Section 18993.1 Instead of requiring jurisdictions meet a specific goal and report on procurements annually, require that all public and private landscape construction use compost and recycled mulch. CalRecycle could support with template specifications for recovered organic waste products. San Francisco does not have the capacity to use the estimated goal of compost, fuel or mulch products. Our municipal fleet is transition from renewable diesel to all-electric.	CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.

Comment Number	Received From	Question/Comment	Response(s)
			<p>Regarding renewable diesel, CalRecycle disagrees. Eligible recovered organic waste products are limited to materials that are derived from recycling feedstock at, or derived from, solid waste facilities. This is necessary to ensure that the use of the product actually helps reduce disposal of organic waste. While renewable sources of energy and gas are of course preferable to fossil sources from a climate perspective, there is not necessarily a link between the material produced and reduction of organic waste that is disposed in landfills. For example fuel derived from corn-based ethanol or diesel may be eligible for federal RIN credits and is derived from organic material (typically corn grown in Iowa), but it lacks a demonstrable link to the organic waste reduction targets the draft regulations are designed to achieve. The comment lacks information for a process to create renewable diesel that is demonstrably linked to reductions in disposal of organic waste in California landfills. Acceptable fuels are fuels derived from renewable gas produced from recycling California, landfill-diverted organic waste.</p> <p>Regarding biochar, CalRecycle disagrees due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
1161	Macy, Jack San Francisco Department of the Environment	<p>Section 18994.2 Jurisdiction Annual Reporting Overall the level of detail of this reporting is burdensome and would require a lot of staff time and some data can be very difficult collect or only estimates may be possible, especially for the detail in fe), (j) and fk). Reducing the level of detail will help jurisdiction better comply by not diverting so much staff time to data collection.</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.</p>
1162	Macy, Jack San Francisco Department of the Environment	<p>Section 18994.2 - the proposed reporting timeframe would require significant effort over just a month (July 2022) to report on activity Jan-June 2022.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>
1163	Macy, Jack San Francisco Department of the Environment	<p>Section 18994.2 (j) Considering all the other reporting, this level of detail on which entities came into compliance during the calendar year would require access to archived hauler data that would be difficult to summarize. We recommend removing this requirement and focusing on the entities that are not in compliance and other enforcement action reporting.</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.</p>
1164	Macy, Jack San Francisco Department of the Environment	<p>Section 18995.1 The level of compliance review, as well as the record keeping and reporting in Sections 18995.2 and 18995.3, is very onerous and does not seem feasible, especially for a jurisdiction, like San Francisco, with thousands of commercial accounts that generate 2+ cubic yards per week and hundreds of routes, to be able to do a compliance review of all accounts and routes every year.</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter. The Department wanted to ensure a fair playing field for all</p>

Comment Number	Received From	Question/Comment	Response(s)
		Even with potential increased staffing, it is not conceivable to be able to do so in less than 3 years. More flexibility in ensuring adequate and reasonable compliance is needed and for many jurisdictions implementing new mandatory programs even flexibility is needed in the early years as programs ramp up.	entities and to identify that jurisdictions have the primary responsibility in monitoring compliance and taking enforcement on entities failing to comply with the chapter. A compliance review is intended to be a “desk audit” to verify that all solid waste accounts for commercial businesses, that generate two cubic yards or more per week of solid waste, are subscribing to service or self-hauling organic waste to a facility that processes source separated organic waste or to a high diversion organic waste processing facility, whichever if applicable. The regulations allow the jurisdiction flexibility when conducting a “sufficient number of route reviews and inspections.” Jurisdiction may prioritize route reviews and inspections to large generators or entities it determines to be more likely out of compliance. If an entity is found to be noncompliant between January 1, 2020 through December 30, 2023, jurisdictions are required to provide educational material describing the applicable requirements of this Chapter.
1165	Macy, Jack San Francisco Department of the Environment	Section 18995.2. (b) Proprietary/trade secret-protected service level data should be protected against disclosure in the Public Records Request Act.	Written records are to be maintained in the files of the local jurisdiction. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction.
1166	Macy, Jack San Francisco Department of the Environment	Section 18995.2. (c) One business day is too quick. Extend to at least fifteen work days.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
1167	Macy, Jack San Francisco Department of the Environment	Section 18997.2. Penalty Amounts Table 1 Modify for some flexibility in the case that there is not enough capacity and/or the edible food is not accepted at a food recovery organization.	CalRecycle has revised section 18991.3 in response to this comment. Section 18991.3 allows for a commercial edible food generator to demonstrate the existence of extraordinary circumstances beyond its control that make compliance impractical. This was necessary to provide relief from enforcement if the edible food generator has proved the jurisdiction failed to increase edible food recovery capacity as required in Section 18991.1 or was unable to comply due to acts of God such as earthquakes, wildfires, flooding and other emergencies or natural disasters. Also, Section 18995.4 allows the jurisdiction to extend compliance deadlines if it finds that extenuating circumstances beyond the control of the respondent make compliance within the deadlines impracticable, such as edible food recovery capacity deficiencies.
1168	Macy, Jack San Francisco Department of the Environment	Section 17409.5.8. Incompatible Materials Limit in Recovered Organic Waste The contamination limit for compost feedstock should be much lower than 10 percent by weight. Processing contaminated feedstock only increases production costs and decreases product quality.	A change to the regulatory text is not necessary. It would be up to the receiving facility to determine what they can accept under their permit. In addition, the facility can reject any load the operator determines cannot be processed or if the level of contaminant is too high.
1169	Macy, Jack San Francisco Department of the Environment	Section 17409.5.1. Organic Waste Recovery Efficiency There should be a stipulated recovery rate or residual maximum at compost facilities as there is for mixed waste processing facilities	Comment noted. Compost facilities or organic waste recovery facilities are not required to meet a recovery rate, but instead, have a limitation on how much organic waste can be disposed. A Compost facility should have no more than 20 percent of organic waste sent for disposal on and after 2022 and 10 percent on and after 2024.
1170	Macy, Jack San Francisco Department of the Environment	Section 17409.5.1 Any residual would count as disposal, since ADC is being phased out.	Comment noted. To clarify, alternative daily cover (ADC) is not being phased out. However, pursuant to Section 18983.1 (a) organic waste used as ADC would be counted as disposal.

Comment Number	Received From	Question/Comment	Response(s)
1131	Macy, Jack, San Francisco Department of the Environment; Sloan, Lisa, Santa Barbara County Public Health Department, Environmental Health Services	18982(a) (51) Building insulation and panels should not be included among the paper products listed. They are typically not purchased along with the other consumer products. Add the clarification that plastic-coated paper is not considered a paper product.	CalRecycle has revised section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in section 18993.3(c)(2) and therefore agrees with the proposed revision. Section 18993.3(c)(2) requires that paper products and printing and writing paper is eligible to be labeled with an unqualified recyclable label as defined by the Federal Trade Commission. Currently, multi-material products (e.g. plastic-lined paper cups and plastic-coated) are not recyclable and are landfilled. The production of nonrecyclable organic materials compromises the state's ability to achieve the organic waste recycling goals. The purpose of this section is to ensure jurisdictions comply with the procurement requirement by purchasing recyclable items, thereby reducing the introduction of nonrecyclable organics into the marketplace. Jurisdictions can comply with this requirement by focusing their procurement on products that can actually be recycled. This limitation therefore alleviates the need to curtail the definition of paper products as suggested.
2035	Macy, Jack; San Francisco Department of the Environment	The required level of monitoring and reporting, especially for verifying adequate service annually, will be burdensome and unnecessarily onerous and costly for cities like San Francisco with many thousands of commercial accounts. Even with our comprehensive mandatory ordinance implemented over the last 10 years and extensive monitoring and compliance efforts this will require additional staff to meet proposed reporting requirements. More flexibility in ensuring adequate and reasonable compliance is needed such as being able to demonstrate high % program subscription and reasonable ongoing monitoring and recovery without reporting on all noncompliance findings and actions and being able to provide overall summaries.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
2036	Macy, Jack; San Francisco Department of the Environment	We are also concerned about much more onerous requirements for 3 stream over 2 stream over 1 stream collection programs. Requiring less education, monitoring, reporting, and enforcement for 1 stream collection will incentivize a 1 stream over a 2 or a 3 stream program. There is a need to monitor and educate for 1 stream collection, such as to keep out hazardous and universal waste that can negatively impact resulting product quality produced by a high diversion processing facility. So a 1 stream program should not be given a pass compared to 2 or 3 stream program implementation and reporting. Otherwise, we will likely see the unintended consequences of greater mixed waste processing vs source separation and resulting lower product quality and product benefit.	CalRecycle revised Section 18984.5(b)(3) in response to this comment. This section requires a jurisdiction to monitor all 3 containers for prohibited contaminants to avoid this type of situation, and the definition of prohibited container contaminants specifies organic wastes placed in gray container. However, 19894.5(b)(3) allows the jurisdiction to impose additional penalties for prohibited contaminants. CalRecycle revised this section to include all containers, to provide clarity and consistency.
3791	Malik, A., County Sanitation District	The proposed regulations impose many new requirements on jurisdictions. In some instances, the prescriptive requirements on jurisdictions seem to go beyond what is	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB

Comment Number	Received From	Question/Comment	Response(s)
	of Los Angeles County	necessary to achieve the goal of increased organics diversion. The burden of these requirements for load tracking, load checking, regulatory reporting, enforcement, and public education are largely going to be borne by the jurisdictions of origin for the waste.	1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3792	Malik, A., County Sanitation District of Los Angeles County	Beyond the financial and resource burdens imposed on jurisdictions, the requirements will likely result in adversarial relationships between the jurisdictions and their residents, local businesses, and waste haulers. Failure to meet the regulations would place these jurisdictions and their residents at risk for substantial monetary penalties. Instead of a detailed command and control approach, the Sanitation Districts recommends that CalRecycle provide an alternative approach that allows jurisdictions to develop their own programs and approaches to meet the performance goals, subject to reporting and oversight, similar to the way that AB 939 was originally implemented. This type of approach should also allow specific components of organic waste streams to be targeted first, rather than attempting to address all types of organic waste at the same time. Targeting food waste, for example, may be more manageable and achievable in the short term, and would achieve the greatest reductions in short-lived climate pollutant emissions. The lessons learned from implementing each process could then be used to improve the implementation of the next phase. It is key that jurisdictions have some discretion to determine the best approaches for their circumstances, due to the many site-specific differences that occur across the State.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
3793	Malik, A., County Sanitation District of Los Angeles County	Furthermore, as discussed in the Sanitation Districts' letter (attached) in response to the December 2018 Notice of Preparation for the SB 1383 Environmental Impact Report, CalRecycle should provide a realistic assessment of the amount of methane that will actually be reduced from diverting 75 percent of the organics from landfills. This assessment should include a full life cycle assessment of net greenhouse gas (GHG) emissions as a result of potential increased transportation, energy (e.g., increased energy due to operating individual digesters versus a regional landfill), and actual methane reduction at landfills due to organic diversion. This assessment is especially important given the significant investment that is needed to achieve the goals of SB 1383.	Comment noted. Environmental benefits including GHGs reductions are quantified in the Final Environmental Impact Report but methane reduction quantification is beyond the scope of regulatory authority for these regulations.
3794	Malik, A., County Sanitation District of Los Angeles County	(10) "Compost" has the same meaning as in Section 17896.2(a)(4). is the product manufactured through the controlled aerobic, biological decomposition of organic waste. To ensure that biosolids-derived compost falls under the definition for	CalRecycle has noted the comment. The definition of compost is an existing regulation (Section 19896.2). CalRecycle is not proposing any changes to this definition. This is not within the scope of this rulemaking.

Comment Number	Received From	Question/Comment	Response(s)
		compost, we recommend the change shown above to Article 1 Section 18982(a)(10).	
3795	Malik, A., County Sanitation District of Los Angeles County	<p>(36) "Jurisdiction" means a city or county, or a city and county or a special district that provides solid waste handling collection services. A city or county, or a city and county, may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, or city and county shall remain ultimately responsible for compliance.</p> <p>As it is currently written, the definition of 'Jurisdiction' is overly broad encompassing all special districts. For example, county sanitation districts do not have the authority to collect solid waste, and are only authorized to engage in some aspects of solid waste handling as it is defined in existing law. See Health & Safety Code Section 4741 and Public Resources Code (PRC) Section 40195. Therefore, it is essential for the Sanitation Districts that the definition of "jurisdiction" in the proposed regulations be modified as shown above. The SB 1383 requirements that are applicable to local jurisdictions should only apply to special districts that provide solid waste collection services for a "jurisdiction" as defined in the PRC Section 40145.</p>	Thank you for the comment. CalRecycle revised the definition of 'jurisdiction' in Section 18982(a)(36) because the original term "handling" as used in the definition is overly broad. This change is necessary to provide clarity.
3796	Malik, A., County Sanitation District of Los Angeles County	<p>(46) "Organic Waste"</p> <p>The definition of organic waste, Article 1 Section 18982(a)(46), is extremely broad and does not prioritize organic diversion according to the potential of the waste to generate SCLPs. The definition should be narrowed to prioritize diversion of materials such as food waste as opposed to textiles or carpets when determining whether diversion goals are achieved. Furthermore, the definition may result in materials such as plastics being included since they contain "material originated from living organisms and their metabolic waste products." The inclusion of plastics does not fit into the concept of organic waste collection and processing</p>	Comment noted. CalRecycle disagrees that the definition of organic waste is too broad. The regulatory text is specifically designed to prioritize or deprioritize certain types of organic waste for specific requirements. For example, organic textiles and carpet, are not subject to the same collection requirements as other types of organic waste. The prioritization reflects the portion of organic waste these materials constitute, which is small, and therefore their total methane generation potential is smaller.
3797	Malik, A., County Sanitation District of Los Angeles County	<p>(62) "Renewable transportation fuel"</p> <p>The definition of Renewable Transportation Fuel in Article 1 Section 18982(a)(62), requires the fuel be derived "...from organic waste diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste." This definition appears to exclude renewable transportation fuel that is derived from sewage sludge anaerobic digestion alone, without co-digestion. We hope that is not CalRecycle's intent, since anaerobically digesting sewage sludge, land applying the resultant biosolids, and producing low carbon transportation fuel all contribute to reducing GHG emissions, and are consistent with the goals of SB 1383. All sewage sludge that is anaerobically digested and beneficially reused should be considered to be diverted from landfills. Another reason we request this change is to provide greater operational flexibility for POTWs that accept diverted, hauled-in organic waste (e.g. food waste and/or fats, oil & grease) at their facilities, and in particular, their digesters. One factor in particular is important in this context, which is the current status of Renewable Identification Numbers (RIN) credits that provide financial incentives as part of the</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs, as identified in the comment. The comment also references EPA's Renewable Fuel Standard (RFS) program. While CalRecycle recognizes that the RFS program may impact the economics of producing renewable gas, it is not within CalRecycle's purview to comment on implementation of that program.</p> <p>However, CalRecycle disagrees with the commenter's argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction's procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>federal Renewable Fuel Standard (RFS) program. Specifically, USEPA has stated that when wastewater solids, which qualify for the more valuable D3 RINs, and food waste, which qualifies for the less-valuable D5 RINs, are co-digested, all of the biogas that is produced is assigned the D5 RINs, thus, providing a disincentive to POTWs to accept organic waste for digestion (and, additionally, make co-digestion projects less financially viable). However, some facilities may have operational flexibility to produce fuel with their wastewater solids and direct the biogas derived from the hauled-in organic waste to other uses, such as on-site combined heat-and-power generation, which can allow them to qualify for D3 RINs. However, if that project configuration is pursued, the current restrictive definition in the proposed regulations would inadvertently result in disallowing procurement credit for renewable transportation fuel produced at POTWs that is available as a result of acceptance of diverted organic waste.</p> <p>To avoid these unintended consequences and clarify this definition, we request the definition of "renewable transportation fuel" be amended to read: "...gas derived from organic waste processed in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23."</p>	<p>does not help achieve SB 1383's landfill diversion goals. For the reasons noted above, gas generated from the inflows of a sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.</p> <p>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.</p>
3798	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 18987.2 BIOSOLIDS AND SEWAGE SLUDGE HANDLING AT POTW</p> <p>As currently written, Article 6 Section 18987.2 implies a general ban on landfilling of biosolids. The Sanitation Districts strongly objects to any landfill prohibition since lack of available markets or disruption of markets due to emergencies may necessitate landfill disposal to protect public safety and the environment. Furthermore, CalRecycle repeatedly indicated at the SB1383 workshops that these regulations would not prohibit landfill disposal of organics but will rather categorize organic waste management methods into what is considered disposal or recovery for the purposes of achieving the diversion goals. It is up to the jurisdictions to implement programs to meet the diversion goals.</p> <p>Therefore, we recommend the following changes to Article 6 Section 18987.2:</p> <p>(a) Biosolids generated at a POTW shall be categorized as a reduction in landfill disposal when removed for recovery if:</p> <p>(1) Transported only to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery Managed using one of the recovery processes or facilities, either on-site or off-site, as specified in Section 18983.1(b) of this Division;</p>	CalRecycle has deleted Section 18987.2 in response to comments.
3799	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 18993.1 RECOVERED ORGANIC WASTE PRODUCT PROCUREMENT TARGET</p> <p>Article 12 Section 18993.1(f) is too restrictive and does not allow the flexibility for new organic waste products to enter the market, such as biochar, pelletized organic waste fertilizers, or other types of biogas projects that are beneficially using biogas. The language also makes it seem like the jurisdiction needs to procure both products. We recommend the following addition to Article 12 Section 18993.1(f):</p> <p>(f) For the purposes of this article, the recovered recycled organic waste products that must be procured are:</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1) Compost, and/or (2) Renewable natural gas transportation fuel or "RNG", and/or (3) Other organic waste products as approved by CalRecycle.</p>	<p>flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding "biochar, pelletized organic waste fertilizers", CalRecycle disagrees due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p> <p>Regarding an open-ended pathway for approval of "other organic waste products", CalRecycle disagrees with this approach for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. As noted above, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
3800	Malik, A., County Sanitation District of Los Angeles County	<p>ARTICLE 6.2 OPERATING STANDARDS Notification Requirements The requirement in these sections to inform the jurisdiction of origin or jurisdiction's designee of received loads with visible contamination is not useful or practical. Based on the Sanitation Districts' experience with processing blue-bin and</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>other recyclable materials, the “visible contamination” standard will require notification for virtually every load. The text in all these sections should be modified to require notification for “excessive” contamination only.</p> <p>The Sanitation Districts recommends the following change to the Notification Requirements:</p> <p>The operator shall inform the jurisdiction of origin or jurisdiction’s designee of received loads when it is determined during inspection that they contain excessive visible contamination. Visual inspections are conducted while implementing an approved loadchecking program.</p>	<p>evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
3801	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 17409.5.6 SOURCE SEPARATED ORGANIC WASTE HANDLING</p> <p>As currently written, Section 17409.5.6(b) implies a general ban on landfilling of recovered organics. The Sanitation Districts objects to any landfill prohibition since lack of available markets or disruption of markets due to emergencies may necessitate landfill disposal. Furthermore, CalRecycle repeatedly indicated at the SB1383 workshops that these regulations will not prohibit landfill disposal of organics but rather will categorize organic waste management methods into what is considered disposal or recovery for the purposes of achieving the diversion goals. It is imperative that the regulations allow jurisdictions to implement programs that provide alternative methods to demonstrate their efforts to meet the diversion goals. Therefore, we recommend the following changes to Section 17409.5.6(b):</p> <p>(b) Source-separated organic waste and organic waste removed from a mixed waste organic collection service for recovery shall be:</p> <p>(1) stored away from other activity areas in specified, clearly identifiable areas as described in the Facility Plan or Transfer/Processing Report; and,</p> <p>(2) Removed from the site consistent with section 17410.1 and either:</p> <p>(A) transported only to another solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery considered diversion if managed using one of the recovery processes or facilities, either on-site or off-site, as specified in Section 18983.1 of this Division; or,</p> <p>(B) used in a manner approved by local, state, and federal agencies having appropriate jurisdiction; or,</p> <p>(C) sent for disposal.</p>	<p>A change to the regulatory text is not necessary. This section focuses on recovered organic waste. Section 17409.5.6(b) is not directly banning organic waste disposal. The purpose of this section is to ensure that the source separated organic waste and organic waste removed from a mixed waste collection service, “for recovery,” is handled in a way that constitutes a reduction in organic waste disposal. A facility can choose not to recover organic waste that is processed and leave it in their residual waste stream, however, that will negatively affect their recovery efficiency.</p>
3802	Malik, A., County Sanitation District of Los Angeles County	<p>SECTIONS 17409.5, 17896.25.1, 17867 AND 20901 LOADCHECKING</p> <p>These sections require the implementation of a loadchecking program to prevent the acceptance of prohibited waste that is too onerous on operators, and in many processing facilities, difficult or impossible to achieve. The loadchecking requirements combined with Sections 17409.5.1 through 17409.5.5 require daily one cubic yard samples from each organic waste type or stream separated, which will result in multiple load checks per day for inspection of contamination. Moreover, the draft regulations also require daily load checks including one load check per source sector per day, further increasing processing/recovery costs, while reducing recovery efficiency and productivity.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>The number of samples that must be sorted through to accomplish the objectives of Section 17409.5 on a daily basis would require large lay down areas at processing facilities and a significant amount of additional staff to accomplish what is required, not even considering the additional resources required for recordkeeping and reporting. Many facilities, have limited excess space given all the simultaneous activities required to effectively sort through incoming solid waste streams. These physical restrictions will be exacerbated when processing facilities ramp up to handle greater volumes of organic waste, especially for facilities that sort multiple organic waste types from both source-separated and mixed waste streams. Section 17409.5.9 allows alternative measurement protocols, but it is not at all clear what will be allowed and how long it will take to obtain approval for such protocols. CalRecycle should expand this section to include more guidance on alternative measurement protocols and approval timeline. Furthermore, to make the overall proposed loadchecking program more workable, the Sanitation Districts recommends that CalRecycle take the following approach in all the sections listed above:</p>	<p>solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p> <p>Regarding the methodology: CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p> <p>CalRecycle staff will develop tools to assist in the implementation of the regulations.</p>
3803	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 17409.5. LOADCHECKING – PROHIBITED WASTES (a) The operator of an attended operation or facility shall implement a random loadchecking program to prevent the acceptance of waste which is prohibited by this Article. This program must include at a minimum: (1) the number of random loadchecks to be performed will be performed at the frequency of a one-week period on a quarterly basis; (2) a location for the storage of prohibited wastes removed during the loadchecking process that is separately secured or isolated, or an alternative that is consistent with the physical constraints of the facility; (3) records of loadchecks and the training of personnel in the recognition, proper handling, and disposition of prohibited waste. In lieu of the use of the facility’s personnel to conduct loadchecks, an operator may use trained and certified contract inspection staff. A copy of the loadchecking program and copies of the loadchecking records for the last year shall be maintained in the operating record and be available for review by the appropriate regulatory agencies.</p>	<p>CalRecycle staff has noted the comment. Section 17409.5, loadchecking for prohibited waste is an existing regulation and CalRecycle is not proposing a revision to this standard. This is not within the scope of this rulemaking.</p> <p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Furthermore, the loadchecking requirements seem unnecessarily onerous for those facilities that are routinely managing preprocessed material or relatively clean material (i.e. biosolids composting facilities). We recommend sampling occur within a one-week period on a quarterly basis and reporting on a quarterly basis rather than monthly. Operators can apply the percentages to daily outbound loads of processed organics and residuals to provide a reasonable estimate of the quantity of organic material that is recovered and disposed. This is particularly applicable to Source Separated Organics (SSO) since SSO loads will be significantly cleaner than mixed waste loads. Periodic sampling will be much more cost effective and will provide similar data to daily sampling, without the additional labor, space and time burdens.</p> <p>The remaining section changes dealing with loadchecking should be implemented consistent with the conceptual approach outlined above. The intent of this proposal is to acknowledge that, over time, the facility will receive fairly consistent types of waste from similar sources. Statistically, it is not necessary to do the checks every day as the wastestream will typically not significantly change on a daily basis. Moreover, the monitoring may inhibit the facility's ability to properly sort and manage the mixed organic wastestream. If, over time, the data indicates significant variability, then more frequent loadcheck requirements may be more appropriate. In addition, the Sanitation Districts requests that the regulations allow loadchecking to be contracted out if the facility does not have personnel capable of performing these tasks or if it is more cost effective to use outside personnel.</p>	
3804	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 17409.5.11 REMNANT ORGANIC MATERIAL IN THE GRAY CONTAINER COLLECTION SYSTEM</p> <p>In Section 17409.5.11(b)(2) – Correct reference to source sector as follows: Section 18815.2(a)(5158)</p>	CalRecycle has revised Section 17409.5.11(b)(2) accordingly.
3805	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 20700.5 CALRECYCLE – LONG TERM INTERMEDIATE COVER</p> <p>The Sanitation Districts strongly objects to the requirement for at least 36 inches of cover to be placed on all landfill surfaces where no additional waste will be deposited within 30 months. This requirement is unnecessary as intermediate cover is already defined in 27 CCR and control of landfill methane emissions is already regulated in 17 CCR. These regulations establish surface emission testing criteria, methane emission thresholds, and regulatory requirements to meet established thresholds. Moreover, landfills in the Los Angeles area have consistently demonstrated compliance with these requirements and strict SCAQMD 1150.1 landfill emission regulations using existing intermediate cover practices and regulations. Placing excess cover will require additional transportation and heavy equipment which will produce additional air emissions, take up capacity that could otherwise be used for refuse placement, and result in substantial costs to rate-payers with no justifiable benefit. Since the aforementioned regulations are already in place to protect the environment and public health, imposition of a new long-term intermediate cover definition with additional requirements is unnecessary and</p>	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.

Comment Number	Received From	Question/Comment	Response(s)
		would increase costs without any commensurate benefit. Therefore, the Sanitation Districts requests this amended section be deleted in its entirety.	
3806	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 20750.1 CALRECYCLE - ORGANICS WASTE HANDLING</p> <p>The proposed language effectively requires landfills to construct material recovery facilities (MRF) to recover organic materials, improve an existing MRF, or only accept waste from a high organic diversion waste processing facility if the landfill proposes to "expand". The revised regulations, now exclude changing of hours of operation from the definition of expansion, but still do not provide clarity on what is considered a "significant change" per 27 CCR Section 21665. The definition of a "significant change to the design or operation" of a landfill is overly broad and may impose these requirements, and the associated increased costs, on landfills making minor changes that do not expand the design refuse footprint or capacity of the landfill. Existing facilities, which are not expanding their refuse capacity or footprint, may not have land available or the financial resources to construct or expand a MRF. Therefore, the Sanitation Districts requests the following modifications to Section 20750.1 part (c):</p> <p>(c) For the purposes of the section, "expanding" means a solid waste landfill proposing to make a significant change significantly expand the landfill refuse footprint or refuse design. capacity to the design or operation as determined by the EA pursuant to 27 CCR Section</p> <p>~</p>	<p>A change to the regulatory text is not necessary. 27 CCR Section 20750.1(c) defines the term "expanding" to mean a solid waste landfill proposing to make a significant change to the design or operation pursuant to 27 CCR 21665. As noted in Subdivision (c)(1), a significant change does not include a change in hours of operation of a landfill.</p> <p>The purpose of this section is to require new or expanding solid waste landfills to implement an organic waste recovery activity for any waste received that has not been processed previously at a High Diversion Organic Waste Processing Facility or Designated Source Separated Organic Waste Facility. Organic waste recovery activities include (in addition to MRF's), composting facilities or operations, in-vessel digestion facilities or operations, and other activities listed under Section 18983.1(b). Landfills that do not have available land or the finance to implement an organic waste recovery activity on-site have the option to transport the waste off-site to another facility where a recovery activity can take place.</p>
3807	Malik, A., County Sanitation District of Los Angeles County	<p>SECTION 21695 CALRECYCLE- ORGANIC DISPOSAL REDUCTION STATUS IMPACT REPORT (SIR)</p> <p>The Sanitation Districts objects to the requirement to submit an SIR for every operating landfill within 180 days of the effective date of these regulations. Producing SIRs as described in the regulations would be costly, time consuming, and not cost-effective for the solid waste ratepayers in California that will ultimately bear the cost of preparing these documents. Data used to produce SIRs will be speculative and prone to error since significant diversion of organics will not have occurred by the time the reports are submitted. Moreover, substantial portions of the SIR document are duplicative with the five-year solid waste facility permit review documents, which are subject to thorough review and approval processes by the EA and CalRecycle.</p> <p>The Sanitation Districts recommends that CalRecycle produce one statewide impact report rather than requiring significant expenditure of resources, with minimal benefit, landfill operators to produce duplicative SIRs for each landfill that analyze the same impacts and data producing similar results and conclusions. Furthermore, the statewide SIR should be prepared no earlier than 3-5 years after the effective date of the regulation to allow collection of accurate and reliable data facilitating proper analysis of the impacts of organic diversion on landfills.</p>	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations.</p> <p>This standard is not duplicative of a five-year review. The purpose of the SIR is to assist operators better understand the potential impact the proposed regulations could have on their landfill which is different than the five-year review. A five-year review is completed by the EA every five years from the last review and evaluates (among other things) the information provided in the application for the proposed facility to determine whether or not the facility will be able to operate in accordance with state minimum standards and permit terms and conditions.</p> <p>Whereas, the SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is necessary to assist the operator in determining and assessing in the timing of those impacts to properly implement any changes or modifications in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p>

Comment Number	Received From	Question/Comment	Response(s)
3808	Malik, A., County Sanitation District of Los Angeles County	<p>ARTICLE 3. OPERATING STANDARDS FOR IN-VESSEL DIGESTION OPERATIONS AND FACILITIES</p> <p>SECTION 17896.44.1 MEASURING ORGANIC WASTE IN RESIDUALS</p> <p>Measuring organics in the residuals from POTW in-vessel digesters, used to process organics received in a wet-slurry such as food waste, is not feasible since the slurry is co-digested with wastewater treatment solids. Moreover, the digesters typically have infrequent cleanout intervals, which are extremely costly to implement. We request an opportunity to establish alternatives to the proposed measurement protocols and the mandatory sampling and reporting requirements (similar to 17409.5.9). Furthermore, as discussed above, the Sanitation Districts have strict contractual requirements that include more restrictive infeed contamination restrictions than the regulations to protect pumps and equipment while reducing cleanout costs of the digester. The Sanitation Districts recommends that POTWs be exempted from the measurement requirements in this Section.</p>	CalRecycle has revised Section 17896.44.1(d) accordingly.
6411	Marchand, J., City of Livermore	<p>Food Recovery. Food Recovery requirements do not differentiate between healthy foods eligible for donation, and "junk" food which does not meet the requirements for redistribution at many food pantries and banks. This will encourage donation dumping and burden food rescue organizations, and a list of eligible food donation items should be included in the regulations.</p>	<p>CalRecycle would first like to clarify that SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute does not state that 20% of healthy or nutritious food be recovered. As a result, SB 1383's regulations do not include requirements that only specific types of food be recovered. CalRecycle does however, recognize that a core value of many food recovery organizations and food recovery services is to reduce food insecurity in their communities by rescuing and distributing healthy and nutritious food to help feed people in need. CalRecycle also recognizes that many food recovery organizations and food recovery services have nutrition standards for the food they are willing to accept. To address this, Section 18990.2 Edible Food Recovery Standards and Policies subsection (d) specifies that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from refusing to accept edible food from a commercial edible food generator. Therefore, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from following their own internal standards and requirements for acceptance related to nutrition or quality of the food when it is recovered. CalRecycle also recognizes that donation dumping occurs. The regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383's regulations prohibiting a food recovery organization or food recovery service from terminating their relationship with that particular generator. Also, CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model food recovery agreement does include language to protect food recovery organizations and services from donation dumping and unexpected donations. The model food recovery</p>

Comment Number	Received From	Question/Comment	Response(s)
			agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.
6412	Marchand, J., City of Livermore	Reporting. Reporting requirements are onerous. Due dates do not align with current CalRecycle reporting schedule, and in some cases jurisdictions must track data from organizations that are not required to provide information, such as food recovery organizations or self-haulers. In some cases, requested information must be provided to Cal Recycle within one business day. While our franchise hauler provides the City with regularly recurring and timely reports, the regulations would require reporting to CalRecycle prior to receipt of reports even for the franchise hauler. It is not feasible to submit reports to Cal Recycle on time with the current proposed regulation.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
6413	Marchand, J., City of Livermore	Monitoring and Enforcement. It will be difficult for jurisdictions to comply with generator monitoring and enforcement requirements. Onsite inspections are costly and time consuming, and the continued issuance of Notice of Violations until compliance is achieved may not be the most effective way to improve diversion. Specifically, monitoring and enforcing all 25,500 organics collection accounts, of which approximately 24,500 are single-family residences, would be tremendously onerous. It is not possible to monitor or enforce this requirement efficiently to be in compliance with the proposed regulation.	A change to the regulatory text is not necessary. The reporting and recordkeeping requirements are the minimum amount needed to allow CalRecycle to ensure a jurisdictions compliance with the Chapter. The recordkeeping requirements also assist a jurisdiction in verifying and tracking their own progress and if they are complying with the law. The Chapter allows a jurisdiction the flexibility to fulfill its oversight role by adopting their own enforceable ordinances that are consistent with the requirements of the Chapter.
6414	Marchand, J., City of Livermore	Procurement. Procurement requirements for organic waste products will be expensive and wasteful. For Livermore, nearly 3,700 tons of compost would need to be purchased annually, at a cost of nearly \$1,000,000 per year. Given the amount of City-maintained acres in Livermore, this amount of compost far exceeds the City's needs.	The draft procurement requirements do not mandate specific end uses for materials, so compost does not have to be used on city-maintained acres, as assumed in the comment. There are many alternative uses for compost, including city-hosted compost giveaways or community or school gardens, to name a few. The City can also procure energy products; CalRecycle has revised Section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility. CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. Additionally, it is unclear how the commenter estimated \$1,000,000 per year for 3,700 tons of compost. The SRIA estimates 1 ton compost = \$25 + \$5 transportation, which means the cost would be approximately \$111,000 per year, which is orders of magnitude lower than the commenter's assumption.
6415	Marchand, J., City of Livermore	Organics Diversion and Contamination. Most organics collected from commercial customers are heavily contaminated with plastic, metals, and glass for current facilities to process, particularly given more stringent final compost product regulations, enforced by the California Department of Resources Recycling and Recovery (CalRecycle). Livermore is actively working with generators to reduce contamination and is working with the franchise hauler to remove contaminants from the organics stream to allow acceptance at the composting facilities. However, expectations of a "clean stream" is a number of years in the future.	A change to the regulatory text is not necessary. Section 18984.5 contains provisions for addressing contamination.

Comment Number	Received From	Question/Comment	Response(s)
3284	Martin, C., California Hospital Association	<p>As tier two commercial edible food generators, California hospitals have demonstrated a commitment to reducing organic waste disposal through the recovery of edible food. As testament to this commitment, several California hospitals have proactively implemented edible food recovery programs and, in doing so, have achieved reduction in edible food waste of up to 50 percent. With this in mind, we recommend that CalRecycle include provisions for de minimis waivers for tier two commercial edible food generators.</p> <p>The proposed regulations include a provision for de minimis waivers for generators of organic waste (Article 3, Section 18984.11). However, similar provisions are not included for commercial edible food generators. CHA respectfully requests that de minimis waivers be included for tier two commercial edible food generators. We would be happy to work with CalRecycle on determining the threshold for the waiver.</p>	<p>Adding a section for exemptions and de-minimis waivers to the regulations was not necessary because the regulations are already structured so that many food facilities and food service establishments are exempt from compliance due to the smaller amounts of edible food they typically dispose. Only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or a tier two commercial edible food generator is exempt from SB 1383's regulations.</p> <p>CalRecycle recognizes however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this issue, CalRecycle added language to Section 18991.3 to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3, extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. And (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.</p>
6000	McClellon, R., San Joaquin County Environmental Health Department	<p>Section 18083 c. requires that the LEA view at least one (1) waste measurement each quarter. I think a much more reasonable approach (time and effort saved) would be to have the operators self-certify annually with the results of the measurements</p>	<p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>he current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
5037	McDonald, N. OWS Inc.	<p>Modify: (33) “High diversion organic waste processing facility” means a facility that is in compliance with the reporting requirements of Section 18815.5(d) of this division and meets or exceeds an annual average mixed waste organic content recovery rate of 65 percent between January 1, 2022 and December 31, 2024, and 85 percent after January 1, 2025 as calculated pursuant to Section 18815.5(e) of this division for organic waste received from the “Mixed Waste Organic Waste Collection Stream” as defined in Section 17402 (a)(11.5) of this division. Rationale for proposed change: The recovery rate should be increased for both target dates to reflect the commercial availability of technology which can achieve the proposed modified rates.</p>	<p>CalRecycle declines the suggested language change. The percentages and dates are tied to the percentages in statute.</p>
5038	McDonald, N. OWS Inc.	<p>Modify/replace: (41) “Non-compostable paper” means paper that is coated in a plastic material that is not a “qualifying bioplastic” or is otherwise not in compliance with ASTM D6868 “Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities”. Modify: (46) “Organic waste” means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, and qualifying bioplastics.</p>	<p>CalRecycle declines the suggested change and finds that it is unnecessary to define this term.</p>

Comment Number	Received From	Question/Comment	Response(s)
		and change each subsequent reference for “plastic coated paper” to “non-compostable paper” Rationale for proposed changes: The proposed changes harmonize this regulation with existing PRC provisions concerning biodegradable and compostable plastics, and with additional provisions contained in recently-enacted provisions for single-use plastics as part of the Coastal Communities Protection Act.	
5039	McDonald, N. OWS Inc.	Modify: (63) “Residual organic waste” means organic waste that is not recovered and remains unprocessed after organic waste has been processed which is then sent to landfill disposal. Rationale for proposed change: The proposed change clarifies that only the unprocessed organic waste is included in the definition, such as the portion that remains entrained with non-organic waste after preprocessing, or the portion excluded during preprocessing as physically incompatible with the organics processing facility.	A change to the regulatory text is not necessary. A text change is not necessary for the following reason: “Residual organic waste” is defined as: (63) “Residual organic waste” means waste that remains after organic waste has been processed which is then sent to landfill disposal. This sufficiently and correctly describes the intent of the definition which is to identify only the waste remaining and subsequently sent to a landfill after organic waste has been processed.
5040	McDonald, N. OWS Inc.	Add (XX) “Qualifying bioplastics” means bioplastics that are in compliance with PRC Division 30, Part 3, Chapter 5.7 Plastic Products and demonstrated acceptance by one or more of the following: ASTM D6400 “Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities”; ASTM D6868 “Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities”; OK Compost Home certification scheme of TUV Austria (formerly Vincotte). Rationale for proposed change: The proposed addition harmonizes this regulation with existing PRC provisions concerning biodegradable and compostable plastics, and with additional provisions contained in recently-enacted provisions for single-use plastics as part of the Coastal Communities Protection Act. The use of qualifying bioplastics for disposable products used in conjunction with food waste is widely recognized as beneficial for increasing participation and capture rates in source-separated organics collection.	CalRecycle generally supports processes that could help increase participation and capture rates, but SB 1383 provides that the intent of these regulations is to reduce the disposal of organic waste that generate methane in landfills. Bioplastics are generally not considered an organic waste and therefore is outside the purview of these regulations. In addition, bioplastics are designed to degrade in an aerobic composting environment but these regulations are not limited to just composting.
5041	McDonald, N. OWS Inc.	Add (XX) “Mixed Waste Organic Waste” means the organics contained within the Mixed Waste Organic Waste Collection Stream. Rationale for proposed change: The proposed addition provides a definition for the use of mixed waste organic waste in subsequent sections of the document.	The regulations include a definition of "mixed waste organic collection stream" in Section 17402(a)(11.5). CalRecycle does not find it necessary to define "mixed waste organic waste" since this phrase doesn't appear in the regulatory language.
5042	McDonald, N. OWS Inc.	Section 18983.2 Determination of Technologies That Constitute a Reduction in Landfill Disposal Modify:	CalRecycle has revised section 18983.2(a)(3) in response to this comment. The change removes the word “mixed” from the phrase “mixed organic waste.” This change is necessary to clarify that the assessment is being performed relative to the greenhouse gas emissions per short ton organic waste being processed.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(3) To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department and/or CARB’s Executive Office shall compare the metric tons carbon dioxide equivalent (MTCO2e) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste (0.30 MTCO2e/short ton organic waste).The Department shall only deem a proposed operation to constitute a reduction in landfill disposal if the process or technology has permanent greenhouse gas emissions reductions equal to or greater than the 0.30 MTCO2e/short ton of mixed organic waste. Rationale for proposed change: The proposed change ensures emission reductions for evaluation of the process or technology is done on an equivalent basis, per the definitions used in this proposed regulation.</p>	
5043	McDonald, N. OWS Inc.	<p>Section 18983.1 Landfill Disposal and Recovery Modify: (a) The following dispositions of residual organic waste shall be deemed to constitute landfill disposal: (1) Final deposition at a landfill. (2) Use as Alternative Daily Cover or Alternative Intermediate Cover at a landfill, except the use of Material Recovery Fines that are approved pursuant to Section 20690 of Title 27 Division 2 (3) Any other disposition not listed in subsection (b) of this section. (b) Organic waste sent to one of the following facilities, operations, or used for one of the following activities, and not subsequently sent for landfill disposal as residual organic waste shall be deemed to constitute a reduction of landfill disposal. Rationale for proposed changes: The proposed changes clarify that the dispositions refer to residual organic waste as defined. This is consistent with existing PRC regulations for ADC and AIC.</p>	<p>For the purposes of these regulations, the definition of disposal or recovery is inclusive of all organic waste disposal, unless otherwise stated. As stated in the Initial Statement of Reasons: 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. AND 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.</p>
5044	McDonald, N. OWS Inc.	<p>Section 18993.1 Modify: (b) (1) Per capita procurement target = 0.15 tons of recovered organic waste product per California resident per year. Rationale for proposed change: The inserted words to make this provision consistent with definition #59. The proposed procurement target basis is too low. At only 0.07 tons per resident, the procurement target represents only 12% of the 23 million tons of organic waste being landfilled in the 2014 baseline. If the 0.07 tons is multiplied by the approximately 40 million residents of California, and the total procurement were in the form of renewable fuel, that is only 53.2 million diesel gallon equivalents. Given that obligated parties can meet the procurement target by procuring a combination of the recovered energy and compost product, the effective procurement impact is even lower for each recovered product market. The proposed level of 0.15 tons, while still modest, is achievable and will increase</p>	<p>CalRecycle has revised Section 18982(a)(59) in response to this comment. This change will clarify the definition of “recovered organic waste product procurement target” as the amount of organic waste in the form of a recovered organic waste product. This change is necessary to clarify that the procurement target is measured in tons of raw organic waste feedstock rather than amounts of recycled organic waste products, as may be interpreted using the current definition. This is necessary because the organic waste tonnage and the volume and tonnage of renewable transportation fuel and finished compost, respectively, are not equivalent and require conversion factors to obtain the amount recovered organic waste product. With revisions to the definition of “recovered organic waste product procurement target,” the issue of consistency between this definition and the per capita procurement target definition is now resolved. This per capita procurement target is measured in tons of organic waste per California resident per year, rather than tons of recovered organic waste product per California resident per year, because this target is focusing on the amount of organic waste that must be procured in the form of a recovered organic waste product, rather than the amount of recovered organic waste product itself.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>the deployment of organics processing facilities with sufficient capacity to achieve the targeted diversion.</p> <p>Modify/Replace:</p> <p>(g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products:</p> <p>(1) One ton of annual recovered organic waste product shall be equivalent to the following:</p> <p>(A) 19 diesel gallon equivalents, or “DGE,” of renewable transportation fuel.</p> <p>(B) 0.58 tons of compost on an equivalent dry weight basis to the collected organic waste.</p> <p>Rationale for proposed changes: The proposed change reflects the difference in recovered organic waste products obtainable from the waste as collected and the use of those collected tonnages</p>	<p>A change to the regulatory text is not necessary. A text change is not necessary for the following reason(s): The per capita procurement target is appropriate as is, as this was calculated using government’s share of the statewide gross domestic product (GDP) and the projections of state population and organic waste diversion needed in 2025. In order to meet the 2025 organic waste diversion target mandated by SB 1383, jurisdictions will be required to procure a percentage of the diverted organic waste in the form of recovered organic waste products. As procurement will require local governments to create markets for these products, CalRecycle determined it would be appropriate to utilize the percentage of government’s share of the statewide GDP, which has averaged 13% over the most recent 10 years of data from the United States Bureau of Economic Analysis, as the amount of diverted organic waste that must be procured by jurisdictions in the form of recovered organic waste products. Although higher procurement of recovered organic waste products by jurisdictions beyond the required per capita procurement target is encouraged, CalRecycle does not find it appropriate to increase this requirement beyond government’s share of the GDP.</p> <p>A change to the regulatory text is not necessary. A text change to the regulatory text is not necessary for the following reason(s): The organic waste to compost conversion factor is based on the Air Resource Board’s quantification methodology, “Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities,” May 2017. The conversion factors developed by ARB are based on wet weight. No rationale is provided in the comment for changing to measurement based on dry weight, therefore CalRecycle defers to the existing ARB quantification methodology.</p>
5045	McDonald, N. OWS Inc.	(1) Should Section 18984.2. Two-container Organic Waste Collection Services, (a) (2) refer to a gray container? The use of a blue container for this waste would seem to confuse consumers. The designated waste for the gray container is not clearly defined nor distinguished from the mixed waste organic waste collection stream, nor from the current “black bin”.	CalRecycle agrees 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. CalRecycle made a corresponding change to the regulation to the color requirements for two container collection services.
5046	McDonald, N. OWS Inc.	(2) How could a physical space waiver apply (Section 18984.11 (a) (2) if an acceptable option is the unsegregated single gray container going to a high diversion mixed organic waste facility?	This waiver applies for small businesses that have legitimate space constraints for a separate organic waste container to meet the jurisdiction’s waste collection system. An unsegregated gray container service does not require an additional bin, therefore the space waivers are inapplicable and unnecessary for this type of service.
5047	McDonald, N. OWS Inc.	(3) How are the targets outlined in Section 18993.1. Recovered Organic Waste Product Procurement Target calculated and expressed? For instance, dry weight basis of both collected organic waste and mixed waste organic waste, and of final procured product?	The final statement of reasons will be clarified to explain that 2025 projections of state population and organic waste diversion were used in the calculations of the per capita procurement target. CalRecycle projects that in order to meet the 2025 organic waste diversion target mandated by SB 1383, approximately 25,000,000 tons of organics must be diverted from California landfills. To meet this target, jurisdictions will be required to implement the SB 1383 regulations, which includes the procurement of a portion of the diverted organic waste in the form of recovered organic waste products. As procurement will require local governments to create markets for

Comment Number	Received From	Question/Comment	Response(s)
			<p>these products, CalRecycle determined it would be appropriate to utilize the percentage of government's share of the statewide GDP, which has averaged 13% over the most recent 10 years of data from the United States Bureau of Economic Analysis, as the amount of diverted organic waste that must be procured by jurisdictions in the form of recovered organic waste products. Therefore, statewide procurement by local governments will be approximately 3.3 million tons of organic waste in the form of recovered organic waste products, which accounts for approximately 13% of the 25,000,000 tons of organics that must be diverted from landfills by 2025. When approximately 3.3 million tons is divided by the projected 2025 statewide population of 42,066,880, the metric of approximately 0.08 tons of organic waste per California resident results. This value is the per capita procurement target and when multiplied by the number of residents in a jurisdiction, the annual recovered organic waste product procurement target for each jurisdiction results.</p> <p>In response to the comment about dry weight basis, the conversion factors listed in section 18993.1(g) are based on Air Resources Board quantification methodologies that use wet weight basis. The comment does not provide any rationale for changing the measurement based on dry weight, therefore CalRecycle defers to the existing ARB quantification methodology.</p>
5048	McDonald, N. OWS Inc.	<p>Section 17409.5.1. Organic Waste Recovery Efficiency. Modify: (a) This section applies to transfer and processing facilities and operations that conduct processing activities. (b) For purposes of compliance with the reporting requirements in Section 18815.5 of this division, and demonstrating that the facility is a "high diversion organic waste processing facility" as defined in Section 18982(a)(33) of this division that meets or exceeds an annual average mixed waste organic content recovery rate of 65 percent on and after January 1, 2022 and 85 percent on and after January 1, 2025 as determined in Section 18815.5(e), the operator shall conduct the measurements described in this section. (c) The operator shall: (1) Determine the quarterly sum of outgoing weights of organic waste recovered from the mixed waste organic collection stream, whether processed on site or transferred to another facility, by adding together all weights determined pursuant to Section 17409.5.2(b)(6) for each operating day for the quarterly period. (2) Determine the quarterly sum of outgoing weights of organic waste either removed from remaining in (or recombined with after preprocessing) the mixed waste organic collection stream that is sent to disposal as measured pursuant to Section 17409.5.3(b)(5) for each operating day for the quarterly period. And (d) The operator shall additionally: (1) Determine the quarterly sum of outgoing weights of organic waste recovered from the source separated organic waste collection stream, whether processed on</p>	<p>A change to the regulatory text is not necessary. SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. In order to achieve these targets, regulatory limitations for high diversion organic waste processing facilities must be implemented.</p> <p>In regard to combing the sum of the organics waste streams: The source separated organic waste is kept separate from the mixed waste stream to ensure that the maximum amount of organic waste is kept clean by reducing cross contamination so it can be recovered and not disposed. However, the recovered organic waste from both waste streams can be combined once sampling/measurements have taken place. This is necessary to ensure that the organic waste recovery target established in statute can be met. In addition, combining the source separated organic waste with the mixed organic waste stream prior to sampling would skew the results to determine the facility's efficiency to recovery organic waste from the mixed organic waste stream for recycling. Furthermore, it also provides consumers the confidence that material they consciously separated for recovery is actually recovered.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>site or transferred to another facility, by adding together all weights determined pursuant to Section 17409.5.4(b)(6) for each operating day for the quarterly period. Rationale for proposed changes: Since the Section refers to both transfer and processing facilities, the organic waste may be processed onsite or be outgoing waste sent to another facility. The unprocessed organic waste sent to a disposal facility may arise from the inefficiencies or byproducts of preprocessing. As an alternative, this section could be narrowed to only include transfer and preprocessing activities, not organics recycling processes.</p>	
5049	McDonald, N. OWS Inc.	<p>Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream. Modify: Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Waste Collection Stream. (a) The operator of an attended operation or facility that accepts a mixed waste organic waste collection stream shall, each operating day, measure the amount by weight of organic waste separated from the mixed waste organic waste collection stream after processing for end-use, recovery or further processing. Rationale for proposed changes: The insertion of “waste” makes this section consistent with the definitions and added sections. Modify: (b) The operator shall comply with subdivision (a) by using the following protocol: (1) On each operating day, take at least a one (1) cubic yard sample from of the separated organic waste or of each of the organic waste types if separated after processing at the operation or facility on that operating day prior to sending to a destination for end- use, recovery, or further processing. Each sample shall be: (A) Representative of a typical operating day; (B) A random, composite sample taken either from various times during the operating day or from various locations within each pile of the separated organic waste or of each of the organic waste types separated after processing. (2) Determine the weight of each sample from each organic waste type. (3) For each sample, remove any incompatible non-organic material and determine the remaining weight of organic waste in that sample. (4) Then determine a ratio for each type of organic waste in the mixed waste organic collection stream by dividing the total from subdivision (b)(3) by the total from subdivision (b)(2). (5) Multiply the ratio determined pursuant to subdivision (b)(4) for the separated organic waste or of each type of organic waste by the total weight of all of the same type of organic waste separated after processing and destined for end-use, recovery or further processing</p>	Comment noted. CalRecycle declines the suggested change as unnecessary to implement the regulatory program.

Comment Number	Received From	Question/Comment	Response(s)
		<p>Rationale for proposed changes: A high diversion mixed waste organic waste processing facility may or may not segregate the separated organic fraction into different organic fractions prior to anaerobic digestion or other processing.</p>	
5050	McDonald, N. OWS Inc.	<p>Modify: Section 17409.5.3. Measuring Organic Waste in Residuals Removed from Mixed Waste Organic Waste Collection Stream. (a) The operator of an attended operation or facility that accepts a mixed waste organic waste collection stream shall, each operating day, measure the amount by weight of organic waste present in the residuals removed remaining from the mixed waste organic waste collection stream after processing that is sent to disposal. (b) The operator shall comply with subdivision (a) by using the following protocol: (1) Take at least one (1) cubic yard sample of the residuals removed remaining from mixed waste organic waste collection stream at the operation or facility on that operating day prior to sending to disposal. Each sample shall be; (A) Representative of a typical operating day (B) A random, composite sample taken either from various times during the operating day or from various locations within the pile after processing. (2) Determine the total weight of the sample; (3) Remove any incompatible material and determine the remaining weight of the organic waste in the sample; (4) Then determine the ratio of organic waste present in the residuals removed remaining from the mixed waste organic collection waste stream by dividing the total from subdivision (b)(3) by the total from subdivision (b)(2). (5) Determine the total weight of organic waste removed from the mixed waste organic waste collection stream that is sent for disposal by multiplying the ratio determined pursuant to subdivision (b)(4) by the total weight of the residuals removed remaining from the mixed waste organic collection stream after processing. (c) The operator shall conduct a measurement in the presence of the EA when requested. (d) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may require the operator to increase the frequency of measurements and/or revise the measurement protocol to improve accuracy. (e) The operator shall maintain records of measurements and the training of personnel in evaluating the amount of organic waste in the residual material removed remaining from the mixed waste organic waste collection stream. Rationale for proposed changes: The insertion of "waste" makes this section consistent with the definitions used in the added sections. The substitution of "residuals removed" by "residuals remaining" is more inclusive of the processing options which may be positive or negative selection of organics or non-organics, and a combination of preprocessing of collected waste and post-AD processing of digestate and/or compost to refine a compost product.</p>	<p>Comment noted. The regulatory language includes "mixed waste organic collection stream."</p>

Comment Number	Received From	Question/Comment	Response(s)
		9. Section 17402 (a) (7.5)	
5051	McDonald, N. OWS Inc.	The definition of Incompatible Materials is too restrictive if meant to apply to the separated organics from mixed waste organic waste collection streams. Some AD facilities can accommodate high quantities of inert materials that are then removed from the digestate after the digestion process. As written, the definition assumes all of these materials are incompatible with all AD processes.	<p>CalRecycle has revised this section in response to comments. The section was revised to phase in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal. The phase in will allow entities time to plan and make any adjustments in order to comply with the revised acceptable limits of 20% on and after 2022 and 10% on and after 2024.</p> <p>Incompatible material is defined to mean any human-made inert material and any waste the receiving facility is not designed, permitted, or authorized to process. However, CalRecycle revised the in-vessel digestion requirements to replace the term “incompatible material” to “material that is not organic waste” and would apply to the material that is sent to disposal. The incompatible definition would only apply to material that is sent for further processing or recovery. This change is necessary to differentiate between organic and non-organic material since incompatible material can contain both.</p>
5052	McDonald, N. OWS Inc.	There does not appear to be a definition for Recovered Organic Waste, only for Recovered Organic Waste Products. Based on the remaining provisions of this section, it appears this is meant to refer to organics separated from the original collection streams.	A definition of Recovered Organic Waste is not necessary. Organic waste separated from the mixed organic or source separated organic collection streams are considered recovered if material is sent to activities described in Article 2, Section 18983.1(b) (composting, in-vessel digestion, etc.) which constitute a reduction in landfill disposal.
5053	McDonald, N. OWS Inc.	Is Section 17409.5.8 (a) meant to pertain only to those transfer facilities that do not convert the removed organics to one or more products on site in a subsequent process, but pre-process and transfer? As written, it encompasses consolidate and transfer stations, transfer/preprocess/transfer stations, and full organics recycling facilities.	A change to the regulatory text is not necessary. Yes, you are correct that this requirement applies to operations and facilities that receive source separated organics and mixed organic waste, unless specifically stated otherwise in the regulations. Source separated organic can be processed with other solid waste streams after sampling has occurred for each waste streams. Until then, waste streams must be processed and kept separate. The reason for this is that it is hard to accurately determine the percentage of actual organic content recovered from each waste stream if they are combined prior to taking sampling/measurements.
5054	McDonald, N. OWS Inc.	The limit of 10 percent Incompatible Material in the separated (aka recovered) organic fraction is too restrictive particularly for the pre-processing of the mixed waste organic waste collection stream, whether done by a separate facility or a co-located facility. The amount of Incompatible Material remaining in the organics going into the AD facility should be determined on the tolerance of the AD facility and its capability and desire to do additional processing after digestion to produce marketable compost or other compliant product.	<p>CalRecycle has revised this section in response to comments. The section was revised to phase in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal. The phase in will allow entities time to plan and make any adjustments in order to comply with the revised acceptable limits of 20% on and after 2022 and 10% on and after 2024.</p> <p>The incompatible material is determined by what the end-user is designed, permitted, or authorized to receive and process. This is necessary to ensure that the material sent out will be largely compatible with the facility for further processing. The facility can reject any load the operator determines cannot be processed or if the level of contaminant is too high.</p>
5055	McDonald, N. OWS Inc.	Section 17409.5.8 (c) is confusing in light of (a), appearing circuitous:	A change to the regulatory text is not necessary. Section 17409.5.8 (c) is intended to clarify that organic waste sent to a facility listed under Subsection (c)(1) is not subject to meet the

Comment Number	Received From	Question/Comment	Response(s)
		“(c) The recovered organic waste stream shall not be subject to Section 17409.5.8(a) if the recovered organic waste is sent to one of the following types of facilities: (1) A transfer/processing facility or operation that complies with Section 17409.5.8(a); or,”	incompatible material limit because it would be sent to a facility with at least a 80% recover rate by 2022 and 90% by 2024. Subsections (c)(1) through (4) identifies those operations and facilities that have the ability to recover heavily contaminated organic waste.
2015	McGovern, Sean; Jurupa Valley	For jurisdiction enforcement (slides 109-121), a specific process with specific fine amounts are described. In theory, a contract waste hauler would have the records needed to conduct this enforcement process on behalf of the jurisdiction (municipality). How do you think CalRecycle would feel about a solid waste contract that enables the solid waste haulers themselves to levy fines based on the amounts described in SB 1383 to non-compliant businesses? A business could still petition the City to intervene and mediate the dispute should any issues arise.	No. The regulatory language was amended in Section 18981.2(f) to clarify that the regulations do not authorize a jurisdiction to delegate to a private entity its authority to impose civil penalties or maintain an action to impose civil penalties.
2016	McGovern, Sean; Jurupa Valley	Basically, I'd like to know if CalRecycle is going to be okay with cities leaning on the haulers to enforce SB 1383. This would relieve the City of having to author letters, mail letters, mail follow-up letters, issue, and collect fines. The waste hauler would oversee that process and simply cut a check to the City on a quarterly basis which would cover the amount of the fines issued.	No. The regulatory language was amended in Section 18981.2(f) to clarify that the regulations do not authorize a jurisdiction to delegate to a private entity its authority to impose civil penalties or maintain an action to impose civil penalties.
5000	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	Definition 36, “Jurisdiction”, now includes a special district that provides solid waste handling services as well as a city or county, or a city and county. However the remainder of the definition implies that only a city or county, or a city and county, may utilize a Joint Powers Authority to comply with the requirements of the chapter, and that the individual city, county, or city and county shall remain ultimately responsible for compliance. That clause should be revised to reference “jurisdictions” to include special districts; or by adding special districts to the existing provision.	In response to comments, the definition was changed to allow a special district to utilize a JPA.
5001	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	Definition 42, “Non-local entity”, includes special districts. This should be revised since special districts providing solid waste handling services are included as “jurisdictions”. Special districts that don’t provide solid waste handling services would be subject to a jurisdiction’s regulations, so the reference is best eliminated.	In response to this comment, CalRecycle defined a “special district” as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a “special district that provides solid waste collection services” is a jurisdiction. Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction’s regulations related to solid waste. The definition of “non-local entity,” lists special districts as an example of a type of entity that could be a “non-local entity” but it does not definitively state that all special districts are non-local entities. Any special district that is a “jurisdiction” and also a “non-local entity” generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3. CalRecycle revised the definition of ‘jurisdiction’ in Section 18982(a)(36) because the original term “handling” as used in the definition is overly broad. This change is necessary to provide clarity.

Comment Number	Received From	Question/Comment	Response(s)
5002	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	<p>Definition 46, "Organic waste" does not address multi-material products that may include "non-organic recyclables" (Definition 43). Please clarify that organic waste items that include non-organic recyclables (or materials) are not "organic waste".</p> <p>Definition 51, "Paper products" has the same multi-material issues as Definition 46. Packaging, and building insulation and panels especially are problematic.</p> <p>"Non-compostable paper" is included in Definition 55B. Please include a definition of "non-compostable paper" that includes paper not accepted at an organic waste processing facility receiving the jurisdiction's collected organic material.</p>	CalRecycle finds that the suggested changes are unnecessary for the implementation of the regulations.
5003	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	Please provide guidance for determining that a "Restaurant" (Definition 64) is primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption. The threshold for "primarily engaged" isn't clear for fast-food businesses with both sit-down and take-out orders.	To clarify, whether the restaurant offers sit-down or take-out orders is irrelevant because fast food is prepared for 'immediate consumption.' If a fast food business is primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption and meets the 250 or more seats or total facility size equal to or greater than 5,000 square feet threshold, then that restaurant must comply with SB 1383's commercial edible food generator requirements.
5004	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	<p>Section 18984.2 describes "Two-container Organic Waste Collection Services." This section needs to be clarified as it tries to cover both source separation and limited mixed waste (unsegregated) collection.</p> <p>(a)(1) states that "[t]he green container shall be for the collection of organic waste only. The contents of the green container shall be transported to a facility that specifically recovers source separated organic waste". (a)(2) provides that "[t]he blue container shall be for the collection of all non-organic waste" and may be used for specified organic wastes. However (a)(3) allows either container to be used for the collection of both organic waste and non-organic waste, requiring transportation to high diversion organic waste processing.</p> <p>Please add specific language authorizing collection under (a)(3) regardless of the prior provisions. The prohibited materials in (a)(5) also should be allowed in a green container used per (a)(3). Section 18984.3(e) allows organic waste in bags placed in grey containers. Bags also should be allowed in the two-container option under 18984.2(a)(3).</p>	The regulatory language referenced in the comment was substantially revised in response to stakeholder comments and released for public comment.
5005	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	Section 18984.5 requires two container system monitoring with no allowance for a container meeting 18984.2(a)(3), which should not be monitored as a source separated container. Please clarify that the container selected in 18984.2(a)(3) is exempt from such monitoring. Section 18984.5(c) triggers container inspections resulting from prohibited container contaminants at a facility. This provision sufficiently guards against container contamination, and should be used as the threshold for conducting route and container inspections. The 18984.5(b) provision requiring that all routes be monitored quarterly is unnecessarily burdensome and cost-ineffective and should be eliminated in favor of verified route contamination at a facility.	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
5006	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	<p>Businesses should not need to provide organic containers if no organic material is sold or generated in customer areas, and 18984.9 should be revised accordingly. Paper accepted in a community’s recycling program should not be considered organic under this provision.</p>	<p>CalRecycle was provided broad regulatory authority in SB 1383 to adopt regulations to achieve the organic waste diversion goals for 2020 and 2025. Section 18984.9 is designed 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 to a facility that recovers source-separated organic waste.</p> <p>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 necessary to complement the jurisdiction requirement to provide organic waste collection services to their generators. The state cannot achieve the required reductions if generators do not arrange to have their organic waste collected and recovered, or self-haul their organic waste to a facility for recovery.</p> <p>This section is necessary to ensure organic waste generators comply with the requirements of this chapter and the service provided by their jurisdiction.</p> <p>Subdivision (b) of this section places an additional set of specified requirements on organic waste generators that are commercial businesses. This section is necessary to increase the amount of organic waste recovered in order to achieve the diversion goals in SB 1383.</p>
5007	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	<p>The low population waiver, Section 18984.12(a), includes 2014 tonnage as a second threshold. Tonnage is a more appropriate threshold for achieving the regulations goals, and cities should be considered for waivers if their 2014 tonnage is below 5,000 regardless of population.</p> <p>13. Expand the rural area definition in 18984.12(c) to include the existing provisions of Section 14571(A) of the California Beverage Container Recycling & Litter Reduction Act. This would provide flexibility to a rigid population limit, while focusing on low disposal and rural community issues not recognized by the traditional Rural County exemption.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
5008	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	<p>Include 18984.12 waiver language recognizing the financial impacts on economically disadvantaged communities. California EPA sets its disadvantaged communities designation by using 80% of statewide median as the threshold, which is \$49,454. The cost of compliance with these regulations should not disproportionately burden California's economically disadvantaged communities. CalRecycle's Standardized Regulatory Impact Assessment estimates statewide annual direct impact costs of \$17 per household. Households in communities with 50% of statewide median income should not be expected to incur more than \$8.50 annually.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
5009	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	Section 18993.1 sets per capita organic procurement targets, including compost and renewable transportation fuel. That requirement may be limited by prior year's total fuel procurement. Need for jurisdiction compost should also be considered by calculating landscaped and turfed areas and appropriate application rates.	CalRecycle disagrees with the proposed method for basing procurement requirements on a jurisdiction's "landscaped and turfed areas." The term as proposed by stakeholders is undefined and subjective, making it prohibitively burdensome to verify. Allowing a jurisdiction to self-report public landscape areas and then estimate compost use without any reference dataset to back it up will create uneven standards and enforcement. Furthermore, counter to the apparent intent of the commenter this approach might make it less likely for a jurisdiction to reduce their procurement mandate.
5010	MDMRA (Davis, J, Mojave Desert and Mountain Recycling Authority)	Section 18996.2(a)(2)(C) describes extenuating circumstances that a jurisdiction may demonstrate when CalRecycle considers substantial compliance efforts. Economically disadvantaged communities should be considered for "extenuating circumstances" resulting from disproportionately high compliance costs; and "substantial effort" should reflect such cost considerations.	CalRecycle declines to revise the meaning of extenuating circumstances and substantial effort as doing so would negatively impact the ability to reach the statutory diversion targets.
1015	Mendoza, Maria, Alameda County Department of Environmental Health	3. Remove the edits under Section 21660.2(c). Informational Meeting for New and Revised Solid Waste Facilities Permit Applications. a. Additional responsibilities are being tasked or mandated to the LEAs for identifying disadvantaged communities in a manner that meets or exceeds the identification tools developed by Cal EPA. Learning and understanding how to navigate CalEPA's mapping and screening tool (EnviroScreen) requires additional staff time and perhaps a need to hire additional personnel. Although we don't disagree with the good intentions to include the disadvantaged communities	CalRecycle has revised this section in response to comments. This section was revised to define the term "affected disadvantaged communities." This is necessary to clarify and assist the LEAs better identify who would be covered under this term so that they are notified and are provided an adequate opportunity to attend and provide comments on the project.

Comment Number	Received From	Question/Comment	Response(s)
		affected by new or expanding solid waste facilities, an alternate language can be presented that does not mandate the LEAs but to only take this into consideration during the permitting process.	
1014	Mendoza, Maria, Alameda County Department of Environmental Health; Sanford, Karen, Kern Public Health Services Department	Section 18984.11 b. To be more consistent with Section 17331, include similar language "where deemed necessary by the local health officer" in the proposed changes. We agree to include the Local Enforcement Agency in Section 18984.11(3)(A)(1) as long as it does not conflict with any local franchise/hauler agreements between the city or county jurisdiction.	Section 18984.11 was revised to enforcement agency.
6220	Mertens, E., Town of Truckee	Residential Organics Collection: As mentioned, 55% of the homes in Truckee are primarily vacant throughout the year, and are utilized as second homes. Additionally, because we have bears roaming in our natural environment, homes that are not occupied by full-time residents have bear sheds that maintain the household's garbage cans for collection. The average bear shed only has enough room for one to two garbage cans. Requiring a curbside program would be extremely difficult given the current existing infrastructure. The bear sheds do not have enough capacity to fit an organics container, and even if a container were to fit, it would be serviced manually. This would require two additional residential routes to be created: one for automated carts, and one for manual service of bear sheds. This would not only be a logistical route issues resulting in an economic burden to ratepayers, but would also pose severe wildlife threat in bear country. Residential collection in carts would be susceptible to the black bears that are commonly known to break into cars and homes in search of food and garbage in our region. Leaving carts outside of the bear sheds would make food waste vulnerable to a bear, putting both residents and the bear in danger. These wildlife issues are also challenging amongst our business community which recently began collecting organics in Truckee, but are more easily mitigated with dumpsters, locking trash enclosures, and daily maintenance of materials by employees. Overall, snow, second-home vacancy, and wildlife issues make residential organics collection extremely challenging and complex to implement in Truckee.	CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826. As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes. Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. This comment argued that the limited space of locked bear boxes, which this commenter's jurisdiction uses to secure garbage bins, creates a capacity issue. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, nothing prevents the jurisdiction from providing smaller containers that could fit inside bear boxes.
6221	Mertens, E., Town of Truckee	Single-container collection is not currently an option to us, as we do not have access to a high diversion organic waste processing facility. This would take millions of dollars of upgrading to the facility where our materials go—Eastern Regional Landfill—which is owned by Placer County. The County's ability and willingness to make such upgrades are unknown.	A change to the regulatory text is not necessary. A jurisdiction in this situation may have to consider moving to a three-container system. These requirements are necessary to ensure that organic waste is collected and recovered in a manner which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.
6222	Mertens, E., Town of Truckee	Re collection: The Town of Truckee is actively looking to provide a residential solution due to resident demands, but given the manual service and wildlife concerns, we are finding it difficult to reach a cost-effective method. We encourage you to consider an exemption for this to an optional program requirement for our residents.	CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826.

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			<p>Jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes.</p> <p>Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. CalRecycle also included low population waivers.</p>
6223	Mertens, E., Town of Truckee	<p>Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities. In particular, where the Town of Truckee is situated, we are geographically extremely limited on facilities that are reliably accessible throughout the year, due to snow and weather constraints with road closures. Currently, there are only two compost facilities within a 60 mile radius that are accessible, which are both located in Nevada.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
6224	Mertens, E., Town of Truckee	<p>Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The Town of Truckee and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure; however, the Town of Truckee is ineligible for cap-and-trade grants because our materials do not go to California landfills. The most recent food rescue grant requirements funded projects that would divert materials from California landfills, but our organic materials are generated within California and are disposed of across the Nevada state line at the Lockwood Landfill, posing yet another challenge. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as providing education and outreach and staff time for enforcement.</p>	<p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>

Comment Number	Received From	Question/Comment	Response(s)
6225	Mertens, E., Town of Truckee	Enforcement: These regulations allow for Corrective Action Plans and establish extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction, but this will pose a staffing challenge as a small jurisdiction with limited enforcement capabilities. Currently, the Town of Truckee has one code enforcement officer for the entire jurisdiction.	Comment noted. Comment is supporting regulatory text, not a change in language.
6226	Mertens, E., Town of Truckee	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”. CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement
6227	Mertens, E., Town of Truckee	The Town of Truckee further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, the Town of Truckee requests that the procurement regulations be addressed in a separate regulatory proceeding.	CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.

Comment Number	Received From	Question/Comment	Response(s)
			<p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
2021	Mertens, Erica; Truckee	<p>I just wanted to reiterate the overzealous procurement requirements. In Truckee, we have a unique environment, where procurement and application of compost provides very little utility.</p> <p>Furthermore, we do procure some rng biofuels; however, we would need to purchase 20x more than we currently buy. Given the unique weather (ie snow) variables, many of our fleet vehicles cannot operate on rng.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products, including mulch and renewable electricity from in-vessel digestion and biomass conversion, to provide jurisdictions with even more flexibility to choose product that fit local needs.</p> <p>CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. If, as mentioned in the comment, the city has limited need for compost, mulch, or fuel, the city may procure electricity or heating applications derived from renewable gas. If the city is capable of reducing or eliminating its use of fossil gas entirely, it could correspondingly reduce or eliminate its procurement obligation under the regulation. This provision was added to ensure jurisdictions are not required to procure more material than they can actually use, and to ensure that the requirements do not conflict with other environmental goals to reduce the carbon intensity of products and activities cities procure material for use.</p>
6234	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M.,	<p>The current draft regulations prescribe standardized collection container colors, labeling, as well as standardizing what can be placed in each container. While we understand that standardizing the color of the collection containers helps to reduce contamination and eliminate any confusion about what goes in a specific container, the regulation does not consider the large volume of waste that will be generated by replacing existing collection containers to match the standardized colors in the regulation. The City of Rancho Cucamonga alone would be required to replace an estimated 50,000 collection containers. We ask that that CalRecycle remove this requirement from the regulation.</p>	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container.</p>

Comment Number	Received From	Question/Comment	Response(s)
	City of Irvine; Huffaker, M., City of Watsonville; N		
6235	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N	Additionally, the regulation includes a prescribed list of what can be placed in each collection container. The prescribed list of materials for the blue recycling container includes items such as wood, dry lumber, and textiles that would be currently not processed as part of the commingled recycling program at the Material Recycling Facilities that serves the jurisdictions in our region. Wood and dry lumber are currently accepted with organic landscape waste. Textiles are extremely difficult to manage in a commingled recycling program and are collected separately. This level of standardization and regulation would require infrastructure changes that are costly and could not be achieved in the time-period provided. If included in the regulation, the City would be forced to implement changes that could potentially decrease waste diversion. We ask that CalRecycle remove the prescribed list of materials to be placed in each container and allow the jurisdictions the flexibility to select the type of collection programs that meet diversion requirements, utilize existing infrastructure and are cost effective.	These regulations specify the minimum standards that apply to each type of collections service that a jurisdiction provides to its generators. While there are minimum standards, CalRecycle is allowing some flexibility stating what 'may' go into the container in some subsections, instead of stating what 'shall' go into the container. These minimum standards ensure that every Californian understands what material types must go in each container. Regulatory oversight is necessary to ensure that source-separated organic waste is not mixed with non-organic waste. This section is necessary to ensure the state is able to meet organic waste recovery targets established in statute. Also, biohazardous and household hazardous materials must be managed in accordance with other state laws and regulations.
6236	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N	The City is also concerned about the ability to comply with the edible food recovery requirements of this regulation. Regulations related to food rescue are managed by the County Public Health Department, not individual jurisdictions. San Bernardino County currently lacks the capacity and infrastructure. We ask that CalRecycle re-consider this requirement and focus on building capacity and infrastructure across the state.	Section 18981.2 of the regulations specifies that a jurisdiction may designate a public or private entity, which includes local environmental health departments, to fulfill its regulatory responsibilities. The exact regulatory text states: A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. A designation shall be made through any one or more of the following: (1) Contracts with haulers or other private entities; or, (2) Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments. (c) Notwithstanding subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter. With regard to the comment about edible food recovery capacity and infrastructure, SB 1383's regulations include edible food recovery capacity planning requirements. In addition, Section 18991.1 (a)(4) includes the requirement that jurisdictions shall increase edible food recovery capacity if it is determined that sufficient capacity does not exist. Assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. It is at the discretion of the jurisdiction to determine what jurisdiction entity is best suited to assess edible food recovery capacity and ensure that compliance with this regulatory requirement becomes a part of their scope. CalRecycle would also like to mention that as a state agency we are heavily focused on increasing food recovery infrastructure and capacity in California. CalRecycle's Food Waste Prevention and Rescue Grant Program funds food waste prevention and food recovery projects across the state. To date, CalRecycle has awarded \$20 million dollars to over 60 grantees.

Comment Number	Received From	Question/Comment	Response(s)
6237	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N	Infrastructure Capacity: As we have noted, California lacks capacity to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not enough time to develop and permit new facilities.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6238	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N	Funding: Lack of sufficient funds continues to be a major challenge local governments face in the effort to implement new organic waste diversion programs. The City of Rancho Cucamonga and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6239	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley;	Enforcement: These regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.	Comment noted, the comment does not recommend a regulatory change.

Comment Number	Received From	Question/Comment	Response(s)
	Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N		
6240	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N	Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
6241	Michael, L., City of Rancho Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate complying with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "substantial additional costs". CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
6242	Michael, L., City of Rancho	The City of Rancho Cucamonga further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state	CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.

Comment Number	Received From	Question/Comment	Response(s)
	Cucamonga; Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; N	mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Rancho Cucamonga requests that the procurement regulations be addressed in a separate regulatory proceeding.	First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383. According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate. Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.
2019	Mills, Jeffery; L and D Landfill	Section 20700.5 L and D Landfill runs a privately held construction and demolition (C&D) landfill. As such, AB1383 has little impact on our waste streams, as we are specifically prohibited from accepting putrescible waste. However, the long term intermediate cover requirements do not differentiate us from facilities that take a higher percentage of organic material. We would urge CalRecycle to reconsider the requirement for 36” of compacted soil as long-term intermediate cover at a C&D landfill . The current requirement for 12” of compacted soil, in conjunction with AB-32 mandated surface emission testing, provides sufficient methane control (and attendant monitoring) based on our waste stream, which is largely non-organic. The addition of a further 24” of compacted soil is a needless expense that offers little to no additional control of methane	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.

Comment Number	Received From	Question/Comment	Response(s)
		emissions. Further, the application of this material (which will also need to be removed later prior to application of further waste or final cover) requires the use of heavy construction equipment, with its attendant pollution impacts. Thank you for your consideration.	
9080	Mitchell, T., Regional San	Section 18987.2 The language requires all biosolids produced at any wastewater treatment plant to be treated via anaerobic digestion and/or composting and sent for land application. Regional San anaerobically digests its biosolids, and both of our disposal methods further the state's goals of reducing greenhouse gas emissions and diverting organic materials from landfills. Regional San is one of roughly five Publicly Owned Treatment Works (POTWs) in California that have surface disposal sites located at a wastewater treatment plant. None of the sludge sent to surface disposal on our site is transported off-site or landfilled, and, thus, would seem beyond the purview of these regulations. It would be cost prohibitive to require our facility to change technology and management practices.	CalRecycle has deleted Section 18987.2 in response to comments.
9081	Mitchell, T., Regional San	Similarly, it is imperative that all treatment options in 40 CFR part 503 Appendix B (Class A and Class B) be allowed and viewed as "recovery" (not just anaerobic digestion and composting). Treatment technologies are themselves dynamic and emerging resulting in alternative treatment and final disposition of biosolids. We recommend all treatment technologies specified in Appendix B of 40 CFR part 503 that result in land application or land reclamation should be counted as a reduction in landfill disposal.	CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO ₂ e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.
9082	Mitchell, T., Regional San	Existing biosolids management practices whereby biosolids do not leave the site should be excluded from these regulations. And emerging technology that may result in energy production (thermal) or avoid fossil-based fuels (cement kilns), but which do not send any biosolids to a landfill should be encouraged.	CalRecycle has revised the proposed regulations in response to comments. The change added Section 17409.5.10.5 to address co-located facilities or operations. The change was necessary to clarify when the measurement protocol is required to be completed if two activities are co-located. Section 17409.5.10.5 requires the measurement protocol to be performed by each activity even if the material from the first activity is sent to the co-located activity, if the facility as a whole sends more than 20% of organic waste to disposal on and after 2022 and 10% on and after 2024. However, if the facility as a whole sends less than 20% of organic waste sent to disposal on and after 2022 and 10% on and after 2024, then the operator would not be required to perform the measurement protocol on the material sent to the co-located activity, only the material sent off-site.

Comment Number	Received From	Question/Comment	Response(s)
9083	Mitchell, T., Regional San	SECTION 18987.2 (1) Treated and managed in accordance with the Land Application, Incineration, or Surface Disposal requirements specified in 40 CFR part 503	CalRecycle has deleted Section 18987.2 in response to comments.
9084	Mitchell, T., Regional San	SECTION 18987.2 (2) Transported only to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 18983.1(b) of this division,	CalRecycle has deleted Section 18987.2 in response to comments.
9085	Mitchell, T., Regional San	SECTION 18987.2 (3) Treated and managed in other approved manners, approved by the regional, state, or federal agencies having appropriate jurisdiction.	CalRecycle has deleted Section 18987.2 in response to comments.
9086	Mitchell, T., Regional San	SECTION 18987.2 (4) Notwithstanding subdivision (a)(1), sewage sludge and biosolids when it is not possible for them to be adequately treated and sent not suitable for additional processing or recovery may be sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the regional, state, and federal agencies having appropriate jurisdiction, or;	CalRecycle has deleted Section 18987.2 in response to comments.
3009	Moss, R., Correctional Training Facility	I have a question. CTF consist of 700 + acres with lots of open land which we work our green waste back into the earth. We also on occasion acquire burn permits from our local Cal-Fire adjacent to our institution. So my question is are we in compliance as green waste goes. Please respond.	The proposed regulations are primarily concerned with how organic waste is collected and processed in order to achieve diversion from landfill disposal. If the commenter is not discarding organic waste, it doesn't appear that the material would be subject to these regulations.
9113	Mourad, M., Sciences Po Paris	Do "Food Recovery Organizations" need to be formally registered as non-profits? Would a group of people that recovers food (without being formally incorporated) be included in that definition? What about for-profit organizations? Allowing companies to generate profit (for example, by charging edible food generators) may be a way to support financially sustainable models of food recovery.	To clarify, food recovery organizations and food recovery services do not need to be registered as non-profits. For-profit food recovery entities could also be considered food recovery organizations or food recovery services. CalRecycle recognizes that many different types of food recovery organizations and services exist, and therefore broad definitions for "food recovery organization" and "food recovery service" were used in the regulations to ensure that the definitions would be inclusive of these non-traditional food recovery groups.
9114	Mourad, M., Sciences Po Paris	Are organizations that collect edible food from generators and distribute this food directly to individuals included in "Food Recovery Organizations" and/or "Food Service Organizations"? For example, OLIO is a platform that allows to recover food from businesses and to redistribute it to individuals. It also allows to redistribute food from an individual to another individual: would this be included in the scope of food recovery?	To clarify, the organization described in this comment could potentially be considered a food recovery organization. Food recovery organizations and food recovery services do not need to be registered as non-profits. For example, for-profit food recovery entities could also be considered food recovery organizations or food recovery services. CalRecycle recognizes that many different types of food recovery organizations and services exist, and therefore broad definitions for "food recovery organization" and "food recovery service" were used in the regulations to ensure that the definitions would be inclusive of these non-traditional food recovery groups.
9115	Mourad, M., Sciences Po Paris	Are organizations that re-sell recovered edible food at a small/discount price included in "Food Recovery Organizations"? Low-price supermarkets or restaurants (such as The Daily Table in Massachusetts) can be a way to offer a more dignified access to food, while recovering excess food.	To clarify, organizations that recover food and then sell the recovered food for a discounted price could potentially be considered a food recovery organization. CalRecycle recognizes that many different types of food recovery organizations and services exist, and therefore broad definitions for "food recovery organization" and "food recovery service" were used in the regulations to ensure that the definitions would be inclusive of these non-traditional food recovery groups.
9116	Mourad, M., Sciences Po Paris	Are café and bakeries, as well as farmers' markets, included in Tier 1 and/or Tier 2 commercial edible food generators? Are grocery stores smaller than 7,500 sq feet	The regulations are structured to place direct requirements on entities that dispose large amounts of edible food that could potentially be recovered for human consumption. These entities are identified in the regulations as tier one and tier two commercial edible food generators. Any

Comment Number	Received From	Question/Comment	Response(s)
		excluded from the scope of the regulation? In that case, are they excluded from the calculation of the baseline quantities of edible food waste?	<p>entities that meet the definitions and thresholds of a tier one or tier two commercial edible food generator will be required to comply with the commercial edible food generator requirements of SB 1383. If a bakery meets any of the commercial edible food generator definitions and thresholds, then the bakery will be subject to SB 1383's commercial edible food generator requirements. Regarding the question about cafés, some cafés could potentially be included as a tier two commercial edible food generator provided that they meet SB 1383's definition of a restaurant and that they also meet one of the established thresholds for restaurants. However, if the café does not meet the restaurant definition or either of the established thresholds, then the café most likely would not be considered a commercial edible food generator. CalRecycle would again like to clarify however, that any entities that meet the definitions and thresholds of a tier one or tier two commercial edible food generator will be required to comply with the commercial edible food generator requirements of SB 1383.</p> <p>Regarding the question about grocery stores, a grocery store under 10,000 square feet is not subject to SB 1383's commercial edible food generator requirements, unless the grocery store meets one of the other commercial edible food generator definitions and its associated threshold. Regarding the question about the baseline for currently disposed edible food, CalRecycle's 2018 statewide disposal facility-based waste characterization study will be used to help measure the edible food baseline for SB 1383. CalRecycle's 2018 disposal facility-based waste characterization study sorted food waste into eight separate categories based on the edibility of the food that was disposed. To clarify, all currently disposed edible food was measured in this study. CalRecycle will measure the state's success toward achieving the 20% edible food recovery goal by analyzing and compiling the data that each jurisdiction is required to submit on the total pounds recovered from commercial edible food generators in the previous calendar year.</p>
9117	Mourad, M., Sciences Po Paris	What additional resources will jurisdictions dispose of to meet this requirement?	Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
9118	Mourad, M., Sciences Po Paris	Jurisdictions should be encouraged to develop collaborative, multi-stakeholders platforms in order to coordinate waste reduction and food recovery programs, and to take into account feedback from various organizations.	A change to the regulatory text is not necessary. This suggestion is outside scope of the regulations, but nothing precludes a jurisdiction from developing platforms to coordinate waste reduction and food recovery programs.
9119	Mourad, M., Sciences Po Paris	Jurisdiction may face confidentiality issues when they try to give information on commercial edible food generators. To what extent will food generators have to provide transparent information on the quantities of food they dispose of?	With regard to the comment that jurisdictions may face confidentiality issues when they try to get information from commercial edible food generators. CalRecycle would like to clarify that SB 1383's commercial edible food generator recordkeeping requirements do not require generators to maintain a record of the amount of food they dispose. However, generators are required to comply with SB 1383's commercial edible food generator requirements which includes the requirement to arrange to recover the maximum amount of edible food that would otherwise be disposed. If a jurisdiction learns that a generator is disposing of edible food that could be recovered, then they could face enforcement action by the jurisdiction depending on the

Comment Number	Received From	Question/Comment	Response(s)
			circumstances. In addition, a commercial edible food generator could face enforcement action if it is determined that the generator has falsified their records.
9120	Mourad, M., Sciences Po Paris	Education and outreach could include specific in-person trainings for food service workers, so that they receive information and guidance on food recovery and food safety regulations, tax incentives, issues related to the nutritional quality of recovered food, and dignified conditions of food recovery. Training opportunities and programs could be supported, if not provided, by the State administration.	Adding the proposed education and outreach suggested in this comment would be overly burdensome for jurisdictions and would potentially increase a jurisdiction's cost to administer education and outreach significantly. However, nothing in SB 1383's regulations prohibits a jurisdiction from conducting the suggested education and outreach voluntarily or having more stringent requirements on this issue. Please note, CalRecycle intends on providing resources prior to 2022 to assist with SB 1383 edible food recovery regulatory compliance.
9121	Mourad, M., Sciences Po Paris	Stating that Food Recovery Organizations do not have to accept food they do not want is a key point. Contract/agreements between Food Recovery Organization and Commercial Edible Food Generators could be a way to ensure the quality of food donations.	A change to the regulatory text was not necessary because the final regulations require commercial edible food generators to establish contracts or written agreements with food recovery organizations or services. However, there is no requirement in SB 1383's regulations mandating food recovery organizations and food recovery services to enter into contracts or written agreements with commercial edible food generators. Food recovery organizations and food recovery services can choose not to participate. If a commercial edible food generator approaches a food recovery organization or a food recovery service requesting a contract or written agreement, it is at the discretion of the food recovery organization or the food recovery service to determine if they want to enter into such contract or agreement. It is also at the discretion of food recovery organizations, food recovery services, and commercial edible food generators to determine the specific language that will be included in their contracts or written agreements for food recovery. CalRecycle would also like to note, that the final regulations include a provision in Section 18990.2 that states, "Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible generator." As a result, food recovery organizations and food recovery services are not mandated to accept food.
9122	Mourad, M., Sciences Po Paris	Donations of food that ultimately gets thrown away (because it does not match the capacity or the nutritional or other quality criteria of Food Recovery Organizations) should not generate tax incentives for donors.	A change to the regulatory text is not necessary. This section does not specify tax incentives for donors of edible food.
9123	Mourad, M., Sciences Po Paris	Food Recovery Organizations, which have variable needs and capacity, should be able to transfer recovered edible food to one another.	A change to the regulatory text is not necessary. This section does not prohibit the transfer of edible food between food recovery organizations.
9124	Mourad, M., Sciences Po Paris	Food Recovery Programs should push Commercial Edible Food Generators to formally partner with Food Recovery Organizations or Services under specific conditions (e.g. through a contract) that would ensure the suitability and quality of the food. In France, the 2016 national law against food waste makes it mandatory for supermarkets above 400 sq. meters to sign a formal agreement with a food recovery organization. Three years later, these agreements seem to have improve both the quantities (by about 30%) and quality of edible food donations.	SB 1383's regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or a food recovery service. If a food recovery organization or a food recovery service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383's regulations prohibiting a food recovery organization or service from terminating their relationship with that particular generator. CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for allowable foods and also includes language to protect food recovery organizations and services from donation dumping and unexpected donations. The

Comment Number	Received From	Question/Comment	Response(s)
			model agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.
9125	Mourad, M., Sciences Po Paris	Food Recovery Programs should favor local organizations, within a specific radius of Commercial Edible Food Generators. This would reduce the impacts of transportations while supporting local, grassroots or community-based organizations. The most appropriate radius could be chosen in accordance with each jurisdiction.	Nothing prohibits a jurisdiction from prioritizing local food recovery organizations and services as part of its food recovery program. If a jurisdiction would like to set a specific radius to help reduce the transportation impacts of their food recovery program then they may do so. However, this is not something CalRecycle will require as an appropriate radius could vary significantly from jurisdiction to jurisdiction.
9126	Mourad, M., Sciences Po Paris	CalRecycle should provide jurisdictions with case studies of successful food recovery programs.	CalRecycle agrees with this comment and intends on providing information and case studies about model food recovery programs and operations in California prior to 2022.
9127	Mourad, M., Sciences Po Paris	The regulation should encourage the prevention of overproduction and waste, before food recovery. In particular, if restaurants or cafés sell products that are about to expire at a discount rate, is this taken into account as “recovery” or a reduction of their waste? Or is it excluded from the baseline? Discount sales should be incentivized, since they allow to reduce waste with minimal transportation costs, while making food accessible and affordable in dignified conditions.	<p>A change to the regulatory text was not necessary because SB 1383’s statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a food waste prevention target. The law only includes an edible food recovery target. As a result, including requirements for commercial edible food generators or jurisdictions to prevent food waste is beyond CalRecycle’s rulemaking authority.</p> <p>CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for donation that are not desired by food recovery organizations or services. One example would be a generator having significant quantities of food that does not meet the nutrition standards of food recovery organizations or services. To address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste. To clarify, this is not a requirement for commercial edible food generators or jurisdictions to source reduce the amount of edible food disposed. This is an education requirement intended to help generators learn how they can reduce the volume of surplus edible food they generate. Providing this education is critical to help generators that struggle to find outlets for their currently disposed edible food comply with SB 1383’s commercial edible food generator requirements.</p> <p>With regard to the baseline, only edible food that would otherwise be disposed will be included in the edible food baseline. Edible food that would otherwise be sold will not be included in the baseline measurement.</p>
9128	Mourad, M., Sciences Po Paris	In case of edible food donations, Commercial Edible Food Generators should have to ensure the quality of the food. In France for example, the standard agreement with Food Recovery Organizations require them to sort produce items (taking out blemished, moldy ones), and to donate packaged goods at least 48 hours before their expiration date. Food Recovery Organization should not incur disposal costs for food donations of insufficient quality.	SB 1383’s regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or a food recovery service. If a food recovery organization or a food recovery service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383’s regulations prohibiting a food recovery organization or service from terminating their relationship with that particular generator. CalRecycle would also like to clarify that nothing in SB 1383’s regulations mandates that a food recovery organization or service establish a contract with a commercial edible food generator. Food recovery organizations and services can choose not to participate. A food recovery organization or service may wish to

Comment Number	Received From	Question/Comment	Response(s)
			<p>consider any costs associated with adding new food donors when deciding whether or not to enter into a contract or written agreement with commercial edible food generator.</p> <p>CalRecycle would also like to clarify that nothing in SB 1383’s regulations requires a food recovery organization or a food recovery service to accept edible food. Section 18990.2 of the regulations states, “(d) Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator.”</p> <p>In addition, CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for allowable foods and also includes language to protect food recovery organizations and services from donation dumping and unexpected donations. The model agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.</p>
9129	Mourad, M., Sciences Po Paris	The regulation states: “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 event to comply with the requirements of this section.” In such instance, if the large venue or large event operator has “required” food facilities to comply with the requirements, but that these food facilities have not complied, who is responsible for compliance? The large venue or event? The jurisdiction in which the event takes place or the venue is located?	CalRecycle would like to clarify that food vendors operating at large events and large venues are not exempt from the edible food recovery regulations. Large event and large venue operators must make arrangements to ensure that the food vendors operating at their event or venue are recovering the maximum amount of their edible food that would otherwise be disposed. In a situation where the food vendors at a large venue or large event are not in compliance with Section 18991.3 of the regulations, the operator of the large event or large venue would be responsible for compliance.
9130	Mourad, M., Sciences Po Paris	Generators should provide data on the quantities, distances, and mode of transportation for food recovery, as well as the number of volunteer / paid hours for food recovery. Food recovery programs should be promoted as a way to create job opportunities.	<p>Regarding adding more recordkeeping requirements for commercial edible food generators, a change to the regulatory text was not necessary. A text change was not necessary because adding the proposed recordkeeping requirements would be overly burdensome for commercial edible food generators and would also increase their recordkeeping costs significantly.</p> <p>Regarding the comment that food recovery programs should be promoted as a way to create job opportunities. CalRecycle intends on sharing information prior to 2022, about model food recovery programs and operations in California that have been successful and are actively creating employment opportunities.</p>
9131	Mourad, M., Sciences Po Paris	CalRecycle and/or jurisdictions should provide record-keeping tools and methods.	Prior to 2022, CalRecycle does intend on providing SB 1383 recordkeeping tools and resources to assist commercial edible food generators with compliance.
9132	Mourad, M., Sciences Po Paris	Edible Food Recovery Services and Organizations should track the quantities of food that they are actually able to use, vs. the ones that are not adapted and that they have to dispose of (whether given to animals, composted, etc.). Disposing of such data would be very helpful for jurisdictions in order to assess the effectiveness of their programs. It could also be useful to question tax incentives received by food donors.	A change to the regulatory text was not necessary because tracking the amount of food that actually was consumed by people would be very difficult and expensive for many food recovery organizations and services to track. A previous draft of the regulations included a requirement for food recovery organizations and services to track their residual food waste. However, the California Association of Food Banks and other key food recovery stakeholders urged CalRecycle to remove the requirement as it would be far too difficult and expensive to track. As a result, CalRecycle removed the requirement.
9133	Mourad, M., Sciences Po Paris	The regulation requires to “Estimate the amount of edible food that will be disposed of by commercial edible food generators that are located within the county and jurisdictions within the county.” How is this baseline going to be estimated? Will individual businesses have to provide numbers on their waste, or will the baseline	CalRecycle’s 2018 disposal-based and generator-based waste characterization studies sorted food waste into eight separate categories. The data collected from these studies will be used to help inform how CalRecycle measures the edible food baseline for SB 1383.

Comment Number	Received From	Question/Comment	Response(s)
		be based on sector numbers? How is the proportion of edible food calculated based on CalRecycle Waste Characterization Study? Do jurisdiction apply a coefficient of “edibility” based on other studies? Jurisdictions should be provided with additional tools and methods to estimate the quantities, nature, and location of excess edible food.	Also, CalRecycle does intend on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of the edible food recovery capacity planning section.
9134	Mourad, M., Sciences Po Paris	The regulation requires to recover 20% of the food. How is this 20% applied? Based on 2014 levels or at the time of implementation? Does it apply to consolidated numbers or for each commercial edible food generators?	CalRecycle’s 2018 statewide waste characterization studies will be used to help measure the edible food baseline for SB 1383. CalRecycle’s 2018 disposal-based and generator-based waste characterization studies sorted food waste into eight categories based on the edibility of the food that was disposed. The eight food waste categories were defined in a manner that will allow CalRecycle to quantify the amount of edible food (food intended for human consumption) that is disposed, and the amount of potentially donatable food (edible food that could have potentially been recovered for human consumption) that is disposed. CalRecycle would also like to clarify that the 2014 baseline year only applies to the organic waste disposal reduction targets. A baseline year is not specified in SB 1383’s statute for edible food recovery. CalRecycle will measure the state’s success toward achieving the edible food recovery goal by analyzing and compiling the data that each jurisdiction is required to submit on the total pounds recovered from commercial edible food generators in the previous calendar year.
9135	Mourad, M., Sciences Po Paris	Requiring a specific percentage of food recovery, based on a baseline of disposed food, would not promote prevention (because efforts to prevent the production of excess food would not be visible as “recovered” food). Additional incentives could be provided for commercial edible food generators that implement prevention efforts, rather than for recovery and recycling capacity and infrastructures.	A change to the regulatory text was not necessary because SB 1383’s statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a food waste prevention target. The law only includes an edible food recovery target. As a result, including requirements for commercial edible food generators or jurisdictions to prevent food waste is beyond CalRecycle’s rulemaking authority. CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for donation that are not desired by food recovery organizations or services. One example would be a generator having significant quantities of food that does not meet the nutrition standards of food recovery organizations or services. To address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste. To clarify, this is not a requirement for commercial edible food generators or jurisdictions to source reduce the amount of edible food disposed. This is an education requirement intended to help generators learn how they can reduce the volume of surplus edible food they generate. Providing this education is critical to help generators that struggle to find outlets for their currently disposed edible food comply with SB 1383’s commercial edible food generator requirements.
9136	Mourad, M., Sciences Po Paris	In their evaluation of food recovery capacity, jurisdictions (and CalRecycle) should track the distances travelled by edible food, with various modes of transportation, as well as job-creation (both volunteer and paid jobs).	Nothing in SB 1383's regulations prohibits a jurisdiction, commercial edible food generator, food recovery organization, or a food recovery service from tracking miles traveled to transport recovered food, various modes of transportation, and the number of jobs created and needed.

Comment Number	Received From	Question/Comment	Response(s)
			However, the regulations do not require this as it is overly prescriptive and not necessary for achieving SB 1383's edible food recovery goal.
9137	Mourad, M., Sciences Po Paris	Food Recovery Programs should ensure that various Food Recovery Organizations are equally supported, and avoid a situation of "monopoly" by one or a few large Food Recovery Organizations. Local, grassroots organizations could have other positive benefits for local communities.	It is at the discretion of commercial edible food generators to decide whom their food recovery partners will be, not the jurisdiction. Please note, nothing in SB 1383's regulations prohibits a jurisdiction from promoting local, grassroots organizations. However, the regulations do not specifically require this as it could be overly prescriptive for jurisdictions to comply with.
9138	Mourad, M., Sciences Po Paris	The proposed regulation should encourage innovative (re)use of organics materials, such as by-products processed into food products or animal feed, if possible, before composting and anaerobic digestion. Food/feed industries would have a higher value-added. They save resources by avoiding the use of new materials for similar food/feed.	Nothing precludes jurisdictions and haulers from utilizing facilities that produce animal feed, and animal feed is considered a reduction in landfill disposal under Article 2.
9139	Mourad, M., Sciences Po Paris	The regulation should maintain exceptions for community composting, so that local efforts are not negatively impacted by large-scale composting systems (in particular through franchise agreements).	The terms community benefit composting and supplemental on-site compost are not used in the regulation. This comment proposes to add the definitions of 'Community Benefit Composting' and 'Micro-composting' to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards. No change to the regulatory text is necessary to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste. Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
3154	Mowles, L., City of La Mirada	Infrastructure Capacity: As previously noted, California lacks enough capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. Where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that it does not provide sufficient time to finance, site permit, and build new facilities.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that

Comment Number	Received From	Question/Comment	Response(s)
			<p>was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3155	Mowles, L., City of La Mirada	<p>Funding: Lack of sufficient funds continues to be among the major challenges for local governments in the effort to implement new organic waste diversion programs. The City of La Mirada and other communities continue to seek solutions to address the need for substantial public sector funding. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like La Mirada, continue to work to address the need for funds to undertake prescribed activities, such as providing bins and labels, promoting education and outreach, and undertaking enforcement efforts.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3156	Mowles, L., City of La Mirada	<p>Enforcement: These regulations allow for Corrective Action Plans and establish extended timelines and milestones for achieving compliance. The addition of a pathway to compliance is appreciated. This is a step in the right direction, and careful consideration of the differences among local jurisdictions must be given, as well as the variety of community stakeholders and infrastructure challenges a local jurisdiction may face.</p>	<p>Comment noted, the comment does not recommend a regulatory change.</p>
3157	Mowles, L., City of La Mirada	<p>Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, the needs of the generators should be understood first. CalRecycle should continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. The City requests that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.</p>	<p>A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.</p>
3158	Mowles, L., City of La Mirada	<p>Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products at target levels set by CalRecycle. These requirements will likely result in substantial additional costs to local governments. The City requests that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding. The City further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even if a fee were to survive scrutiny under Prop. 26, it is questionable whether a city would have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218). This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). The procurement regulations should be addressed in a separate regulatory proceeding.</p>	<p>CalRecycle has determined the procurement requirements are necessary to achieve the organic waste diversion goals set in statute by ensuring end uses for processed organic waste. In addition, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>Regarding “substantial additional costs,” a change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”.</p>

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.
3159	Mowles, L., City of La Mirada	Consistency with AB 939 and AB 1826: Any regulatory system that does not build upon the billions of dollars invested in the AB 939 infrastructure will not be cost-effective. Today's AB 939 infrastructure has been the backbone of implementing commercial recycling under AB 341 and AB 1826. While some obstacles have been experienced in implementing these programs, significant progress has been achieved. The fact that cities have already experienced significant barriers in implementing AB 341 and AB 1826 (such as the resistance by generators to increase solid waste handling costs and the lack of facilities) should serve as a precursor to the far more drastic changes that would be required under the proposed regulations	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
9140	Muir, J., Peninsula Sanitary Service	Regarding proposed revisions to SB 1383 Article 3 Organic Waste Collection Services Section 18984 and the container or lid for separated food waste in Article 3, Section 18984.1 (a)(6)(A), we ask that the color for "separated food waste" be specified as the color brown rather than yellow. There are several reasons for this: a) The color brown can be made with a higher level of recycled content plastic rather the color yellow, leading to market demand for recycled plastic. b) Brown is easier to keep clean and aesthetically pleasing compared to yellow which will show dirt and grim much faster than brown. c) Brown is the second most used color in the country for compostables. If a jurisdiction didn't use green (possible because they used that color for recycling in a dual stream program), they used brown. This would also require an update to the definition of "Yellow Container" in Article 1 Section 18982(a)(77).	CalRecycle responded to stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic. The jurisdiction would be able to continue to use the brown containers for manure until they reach the end of their useful life or until 2036, whichever comes first.
9141	Muir, J., Peninsula Sanitary Service	For those programs that are dual stream, separating paper from bottles and cans (containers), it is important to regulate the shade of blue that will be used for paper and for bottles and cans so that jurisdictions use a color that is uniform with everyone in the state. This could be simply stated that light blue is used for bottles and cans and dark blue is used for paper. Section 18984.1 (a)(4) would need to be updated.	CalRecycle revised Section 18984.7(a) in response to this comment to clarify that jurisdictions have to provide containers for the collection service that the jurisdiction implements for organic waste generators, not the indoor bins of businesses. Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. Additionally, if the color is an issue in

Comment Number	Received From	Question/Comment	Response(s)
			this circumstance, the business can use labels instead. CalRecycle will clarify in the FSOR that Section 18984.9(b), which allows a commercial business to provide containers that comply with either the color or the labeling requirements, applies to Section 18986.1 and Section 18986.2.
9142	Muir, J., Peninsula Sanitary Service	Regarding the paper products definition in Section 18982(a)(51). We are concerned about the inclusion of building insulation and panels. Unlike the other materials included in the definition of paper products, building insulation and panels are most frequently not made of paper. In addition, some insulation has a single paper backing to fiberglass layers which is not practically separable from the fiberglass. Since the regulations of "organic waste" (#46) includes paper products, the inclusion of building insulation will lead to confusion and contamination. This problem is magnified when procurement is considered. The regulations require jurisdictions to procure and track recycled content paper products and meet minimum purchasing percentages. Factors influencing the selection of insulation type and performance are highly technical and vary depending on a number of factors. There are a high number of high performing insulations which are not composed of recycled content and building architects should not be attempting to balance a building's energy performance with its recycled content when making these decisions. For these reasons, we request that "building insulation and panels" be removed from the definition of paper products.	CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.
9143	Muir, J., Peninsula Sanitary Service	The definition for "organics"/"organic waste" is not consistent among various legislation: SB 1383 - (46) "Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. AB 1826 - (c) "Organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. AB 901 - (39) "Organics" means material originated from living organisms and their metabolic waste products. This includes, but is not limited to, food, "agricultural material" as defined in section 17852(a)(5) of this subdivision, "agricultural by-product material" as defined in section 17852(a)(4.5) of this subdivision, green material, landscape and pruning waste, nonhazardous lumber and dimensional wood, manure, compostable paper, digestate, biosolids, and biogenic sludges; and any product manufactured or refined from these materials, including compost, and wood chips. The definition of "organic waste" should be consistent with state law and should not include textiles or carpets.	Comment noted. The definition of organic waste employed in these regulations is specific to the purpose and necessity of this regulation. Regulations adopted by other agencies or codified in other portions of statute, can employ a different definition for a different purpose. Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
9144	Muir, J., Peninsula Sanitary Service	Regarding Article 10, Section 18991.3 Commercial Edible Food Generators, the proposed regulation should clarify that food sales at large events and large venues that are NOT a part of the venue's direct concession services should be exempt from the food donation requirements. Examples include food trucks located in/at large venues and events, non-regulated food vendors, and persons serving food outside of the event or venue such as tailgating.	CalRecycle would like to clarify that food vendors operating at large events and large venues are not exempt from the edible food recovery regulations. Large event and large venue operators must make arrangements to ensure that the food vendors operating at their event or venue are recovering the maximum amount of their edible food that would otherwise be disposed. In a situation where the food vendors at a large venue or large event are not in compliance with Section 18991.3 of the regulations, the operator of the large event or large venue would be

Comment Number	Received From	Question/Comment	Response(s)
			responsible for compliance. CalRecycle would also like to mention in response to this comment, that tailgaters are not subject to this regulation.
3010	Murguia, I., City of Poway - Public Works	Under SB 1383, will food waste recycling/diversion be required of multi-family developments, specifically apartments? As CalRecycle knows, currently diverting food scraps is not required as part of AB 1826, only green waste.	The regulations require organic waste recycling services, including food waste recycling to be provided to multi-family dwellings, including apartments.
6160	Nason, R., City of Albany	As a small City of just 2 square miles with a small commercial district, we rely heavily on programs that are developed, implemented, and enforced on a Countywide or regional scale. We hope you will consider that some programs, such as food recovery, are better implemented at larger scales in the enforcement of these important initiatives.	CalRecycle included low population waivers in the proposed regulations.
6161	Nason, R., City of Albany	For our small City, staffing is the biggest challenge. Furthermore, we do not have space or resources to support additional staff even if funding were available.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6162	Nason, R., City of Albany	In addition to implementation challenges, inevitable tracking and reporting requirements could create a burden for limited staff that may inhibit the ability to focus on implementation. We ask you to consider reporting requirements that are straightforward and not burdensome.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
6163	Nason, R., City of Albany	Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Albany and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities,	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of

Comment Number	Received From	Question/Comment	Response(s)
		such as updating bins and labels, as well as providing education and outreach. Some costs, such as new bins, may have to be passed on to ratepayers, many of whom are already paying over 35% of their income on housing. We are very sensitive to increasing the burden of housing costs in the Bay Area.	complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6164	Nason, R., City of Albany	These regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face. In particular, we request support rather than penalties, especially for small jurisdictions with limited resources.	Comment noted, the comment does not recommend a regulatory change.
6165	Nason, R., City of Albany	The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
6166	Nason, R., City of Albany	New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding. Additionally, it can be difficult to implement and adequately track procurement requirements.	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "substantial additional costs". CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the

Comment Number	Received From	Question/Comment	Response(s)
			<p>regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
6167	Nason, R., City of Albany	<p>The City of Albany further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Albany requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>The procurement requirements are necessary to achieve the diversion goals in statute by encouraging end uses for processed organic waste. CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>Regarding "additional costs," a change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “additional costs”.</p>

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.
4010	NCRA (Brooms, KD, NCRA)	We recommend that CalRecycle fold jurisdictional reporting into existing reporting requirements, such as those for AB 939.	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.
4011	NCRA (Brooms, KD, NCRA)	<p>(We recommend that CalRecycle) make the following tools and technical assistance available to local jurisdictions in order ease the challenge of complying with SB1383:</p> <ul style="list-style-type: none"> ● food donation guides (suggest using existing materials that can be customized) ● methodology on how to estimate edible food recovery capacity & baseline using CalRecycle waste characterization research ● record keeping tools ● education & outreach material/resources ● language to use with franchise agreements ● case studies on jurisdictions contracts for edible food recovery including pros & cons of various approaches ● sample ordinance language re:Cal Green Building standards ● load checking/sampling & reporting contamination procedures ● Sample amended/revise IWMPs and SWMPs ● dynamic method to share all this information (i.e. web page) in real time with opportunities to add/update supported with sustainable funding (possibly through advertising/sponsorship) ● technical assistance including facilitation and community education ● translations or translation services of the material into relevant languages. 	Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.
4429	NCRA (Brooms, KD, NCRA)	In addition, we would like to see the regulation giving just as much credit to prevention as recovery when it comes to edible food.	SB 1383's statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a food waste prevention target. As a result, CalRecycle will not require commercial edible food generators or jurisdictions to prevent or source reduce the amount of edible food they generate. CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for food recovery that are not desired by food recovery organizations or services. One example would be a generator having food available that does not meet the nutrition standards of food recovery organizations or food recovery services. To help address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste.
4555	Neff, H City of Elk Grove	Section 4 of the Standardized Regulatory Impact Assessment, which demonstrated that the proposed regulations would have a positive economic impact on the State contains a number of flawed assumptions and is overly optimistic. While there will	Comment noted. CalRecycle disagrees that the cost presented in the SRIA, and the subsequent estimates provided in the Appendix to the ISOR, "vastly underestimate the true cost of implementation." In the Appendix, CalRecycle presented a cost sensitivity of three scenarios. Each

Comment Number	Received From	Question/Comment	Response(s)
		<p>be a number of positive impacts, there will also be a number of negative impacts that will offset the benefits, and those should be appropriately reflected in the analysis.</p>	<p>scenario is based on a projected disposal level. CalRecycle projected cost based on the most conservative projections of disposal (highest estimates of disposal and required recover of 289 million tons). CalRecycle also provided cost sensitivity for the economic value of recycled commodities and costs for transporting recovered material to market. CalRecycle relied upon the most conservative estimates for each of these sensitivity analyses (the highest estimate of transportation costs and lowest value for recycled commodities). The general comment that CalRecycle understates costs was made by several commenters but failed to specify how costs were underestimated or recommend an alternative method for estimated costs. Regarding comments that cite specific areas where the commenter believes costs are underestimated, those comments are addressed in separate responses.</p>
4556	Neff, H City of Elk Grove	<p>Section 4.2 (SRIA)• The modeling of economic impacts did not include key factors such as non-industry sales, which would have demonstrated the impacts to businesses as a result of Consumer Prices changes. As consumer prices increase resulting from higher costs associated with organic waste collection, price elasticity dictates that the demand for at least some consumer items will decrease, thus California businesses will be faced with reduced sales as a result of these regulations. This, in turn, will decrease overall GDP for the State calculated in Section 4.4.4.</p>	<p>Comment noted. CalRecycle revised the economic modeling prepared for the regulations to account for this. The Appendix to the ISOR notes: Increased costs to businesses are assumed to be passed on through higher rates for waste management services, which businesses then have to absorb. Higher operating costs serve to make these firms less competitive, driving down exports and overall sales, all else being held equal. This effect is modeled with the production cost policy variable in the REMI model, and 50 percent of all costs were modeled with the production cost policy variables. It is assumed that households will also be impacted by higher costs for waste management services. As the costs of the new regulations filter through the industry, households will be faced with higher prices on consumption goods. To model these impacts, the analysis uses the consumer price policy variable to raise the cost of goods in relation to their utilization of waste management services. In the REMI model, as consumer prices for certain goods increase, consumers will consume relatively less of those goods. This decrease in consumption will lead to a decrease in output and employment, ceteris paribus. See page pages 35-39 of the Appendix to the ISOR.</p>
4557	Neff, H City of Elk Grove	<p>Section 4.2 (SRIA) Paragraph 5 of this section states that an assumption was made that the increased costs to private industry would be passed completely on to consumers. This assumption ignores the fact that California businesses have to compete with online and out-of-state firms and do not necessarily have the option of simply raising prices/service fees to pass costs onto to consumers. Many companies will have to absorb these additional costs leading them to cut spending elsewhere and possibly even cut employment or reduce future hiring. The multiplier effect from reduced business spending alone could potentially lead to significant detrimental effects on the California economy up to and including the closure of businesses and the associated loss of jobs at those companies. Some firms may choose to move out of state, as many are already doing. These negative impacts to non-industry businesses are not reflected in the analysis.</p>	<p>Comment noted. CalRecycle revised the economic modeling prepared for the regulations to account for this. The Appendix to the ISOR notes: Stakeholders raised concerns that this approach may understate the economic impacts of the regulations as many businesses would be required to absorb costs and could not pass costs through to consumers. To respond to stakeholder concerns, this analysis assumes that only 50 percent of costs are passed on to households through the consumer price policy variable and 50 percent of costs are absorbed by businesses through the production cost policy variable. The previous analysis modeled all program costs as consumer price increases. While it is speculative to assume the proportion of costs that will be absorbed as production costs, CalRecycle opted to revise the model to provide a mechanism for demonstrating potential impacts on the ability of California businesses to compete. The results of this analysis are below. See Addendum 1 for additional detail on the approach to economic modeling. See page 21-24 and pages 35-39 of the Appendix to the ISOR.</p>
4558	Neff, H City of Elk Grove	<p>Section 4.43 (SRIA) This section neglects to include the decrease in disposable income that individuals will be subject to from two sources:</p>	<p>Comment noted. CalRecycle disagrees that the cost per household is underestimated. Various commenters making this claim identified that they estimated the cost per household in their</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>o Increased fees residents will have to pay for garbage service due to organic waste collection. Section 3 estimates this amount to be approximately \$17 per household per year on average. That figure is likely grossly understated; the figure in Elk Grove is approximately \$62 and other communities have estimated it to be as high as \$140.</p>	<p>community is higher than the estimate estimated in the SRIA, or in the revised costs presented in the Appendix to the ISOR. The SRIA and the Appendix to the ISOR were not designed to specifically estimate the cost per household in, for example, Elk Grove or Santa Barbara. CalRecycle reiterates that the costs presented in both documents represent an estimated statewide average based on source documents that average costs from various regions across the state. Notably, the SRIA included the following disclaimer: “Note that actual increases in rates may vary among jurisdictions and may reflect other factors specific to that jurisdiction, including the existing level of program implementation the jurisdiction is already performing without a statutory mandate. For example, lower costs will result if the city or county has already implemented mandatory food waste collection for residential and/or commercial, and other programmatic activities, such as edible food recovery programs, education, and/or contamination monitoring. And larger cities and counties will have higher costs, e.g., they will have a larger number of inspections to conduct, etc. Rural cities and counties may have lower costs as they will have fewer inspections and they may be able to phase in implementation due to a lack of recycling infrastructure.” The Appendix to the ISOR also presents several statewide cost scenarios. CalRecycle conservatively estimated household costs based on the highest estimated cost scenario. CalRecycle acknowledges that jurisdictions that opted to require all businesses to have organic waste recycling services as a part of their implementation of AB 1826 will experience smaller cost increases than the jurisdictions that simply offered services rather than required them. CalRecycle additionally provided two regional variations in the Appendix to the ISOR to address</p>
4559	Neff, H City of Elk Grove	Section 4.43 (SRIA) Decreased personal incomes from job losses or reduced hiring due to increased costs in the private industry as noted in Item A above.	Comment noted. The commenter is expressing an opinion regarding the scope of the SRIA. CalRecycle made changes to the SRIA in response to stakeholder comments and released updates for public comment.
4560	Neff, H City of Elk Grove	Section 4.43 (SRIA) A decrease in disposable income from these two sources will lead to additional decreases in non-industry sales, which should also be reflected in the analysis.	Comment noted. The commenter is expressing an opinion regarding the scope of the SRIA. CalRecycle made changes to the SRIA in response to stakeholder comments and released updates for public comment.
4561	Neff, H City of Elk Grove	Section 4.4.3.4 (SRIA) • This section makes several assumptions indicating that VMTs will not increase. These assumptions are overly optimistic for several reasons. Even assuming that all of the regulatory hurdles for the development of new facilities were to be overcome, that does not necessarily mean that private or public financing is available to fund those facilities. There is likely to be some long-haul transportation of organic waste, at least in the first few years after implementation. Additionally, the assumption that trash collection will decrease as organic waste increases is incorrect, at least for many residential customers. Trash collection will still need to be collected weekly in most communities and those who are already collecting green waste separately may need to increase collection frequency once organics are added along with green waste. It is naïve to assume that there will be no net increase in VMTs. While decreases in some areas may offset increases in other areas, that is too broad of an assumption to make without further analysis. Similarly, with commercial trash service, some businesses may not find it practical to	<p>The SRIA and the Appendix to the ISOR note that a specific increase or decrease in Vehicle Miles Traveled (VMT) could not be projected. This assessment remains true today, as noted in the Final Program Environmental Impact Report for SB 1383 Regulations—Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction: “Decisions by project proponents regarding the choice of compliance options and the precise location of new or modified facilities related to implementation of the proposed regulation cannot be known at this time. Furthermore, due to local planning, political (i.e., the willingness of jurisdictions to address local opposition to the siting of new or expanded facilities), and economic influences, attempting to predict project approvals about the specific location and design of facilities and operations undertaken in response to the proposed regulation would be speculative and infeasible at this stage...” The commenter assumes that absent an explicit calculation of VMTs, CalRecycle has failed to account for potential fuel costs associated with hauling organic material. This assumption is inaccurate. CalRecycle notes that the projected collection costs disclosed in Table 3 of the SRIA,</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>reduce the frequency of trash service due to contaminated material that still needs to be serviced at least weekly.</p>	<p>and in Tables 7 and 8 of Appendix to the ISOR, include increased fuel costs associated with recycling.</p> <p>While this is not a direction calculation of VMT this cost does account for the costs associated with increased fuel purchases associated with increased hauling. Additionally, CalRecycle provided a cost sensitivity analysis in the Appendix to the ISOR which estimates a range of transportation costs (including fuel costs). A sensitivity analysis is provided as specific estimates of VMT would be speculative. In the Appendix to the ISOR CalRecycle notes:</p> <p>The collection costs calculated in the original SRIA, and shown in the following Collection and Processing of Organic Waste section, relied upon values derived from Cost Study on Commercial Recycling prepared by HF&H Consulting and Cascadia Consulting Group for CalRecycle. The values in the cost study included fuel costs associated with collecting organic waste as a part of the total cost of collection. In this analysis, CalRecycle has additionally included data available from the cost study to project a range of potential costs associated with transporting finished products (e.g. compost, recycled paper, etc.) to market.</p> <p>While fuel costs were included in the original SRIA, this analysis shows a range of additional potential cost scenarios.</p> <p>The Cost Study on Commercial Recycling provides a statewide weighted average cost per ton for transporting a range of recovered commodities to market. The transportation costs represent the cost of delivering finished product to market. (As noted above, the fuel and transportation costs associated with collection are a part of the collection line-item shown in Collection and Processing of Organic Waste). For each material category, the per ton transportation costs include 1) base costs, 2) fuel costs, and 3) hauling costs.</p> <p>Base costs are defined as the minimum charge for picking up the materials from the processing facility. This represents the cost of loading, unloading, queuing, and a minimum travel distance of 10 miles. The fuel and hauling cost components represent the additional cost per ton per mile beyond the minimum charge. The calculator includes per ton costs for various material categories (e.g. compostables, glass, wood waste, etc.). The transportation costs were applied to the projected tons that would be recovered in each category. The Cost Study on Commercial Recycling, and the O&M costs for compost and AD derived from the SLCP economic assessment, include several similar or duplicative costs associated with collecting material from a facility. This was controlled for in the following low and medium transportation costs summaries. For each sensitivity analysis for transportation costs, slight variations were made to the calculator.” (emphasis added).</p>
4562	Neff, H City of Elk Grove	<p>Section 4.5 SRIA This section does an excellent job of covering the scope of new businesses that will be created due to these regulations. However, it completely ignores the fact that there is a real likelihood that many businesses will close or migrate out of state due to the higher costs associated with these regulations. As noted above, many businesses simply cannot pass through higher costs to their customers as they have to compete with online and out-of-state businesses. A true economic impact analysis would incorporate these direct impacts as well as the</p>	<p>Comment noted. The SRIA, and the Appendix to the ISOR, included the estimated direct cost per business in the economic modeling which was performed in accordance with the standards established by CalRecycle of Finance.</p> <p>Comment noted. The SRIA, and the Appendix to the ISOR, included the estimated direct cost per household in the economic modeling which was performed in accordance with the standards established by CalRecycle of Finance. The gross costs and gross benefits were input into the economic modeling used to calculate disposable income. In the Appendix to the ISOR, gross costs</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>subsequent indirect impacts incurred from reduced business spending captured via a multiplier.</p>	<p>were weighted by household and business based on the total waste generation attributable to each sector. Additionally, in response to stakeholder comments, CalRecycle conservatively assumed a greater portion of the costs assigned to businesses would be absorbed by businesses rather than passed through directly to consumers. The revised estimates of economic impacts to individuals and businesses is on pages 21-24 of the Appendix to the ISOR.</p> <p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment.</p> <p>The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4563	Neff, H City of Elk Grove	<p>Section 6 SRIA Alternative 1 suggests that eliminating the mandatory local jurisdiction enforcement aspect of the regulation would not be as effective in achieving the needed reduction in organic waste disposal. This is not necessarily true. In our experience, as actual practitioners of local education, outreach, and enforcement programs we have found that punitive approaches do not necessarily prove to be any more effective than those involve education and/or rewards for doing the right thing. We find that most people want to do the right thing; they just need to understand the reason why it is the. right thing to do and, occasionally, some incentive to do so. Consequently, the assumptions behind this alternative are not correct. Although there would be fewer costs associated with less enforcement, the conclusion that there would also be fewer results is not necessarily true. That depends more upon the ·eartment's enforcement over jurisdictions rather than local jurisdictions" enforcement over generators.</p>	<p>Comment noted. The SRIA presents two alternatives. The first alternative considers implementing the regulation without requiring local governments to take enforcement against entities in violation. This assumption is not without evidence. The assumption relies on evidence from existing jurisdiction organic waste recycling programs with enforcement, compared to programs that lack enforcement.</p> <p>CalRecycle modeled the local enforcement provisions (monitoring, noticing processes, and penalties) 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 service. 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 against businesses that fail to obtain service (the state is not authorized to take enforcement against businesses under AB 1826). The vast majority of jurisdictions have chosen not to take enforcement against any businesses that fail to</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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.</p> <p>The compliance rates achieved in the jurisdictions that CalRecycle modeled the delegated local enforcement provisions on 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.</p> <p>Comment noted. CalRecycle disagrees that the cost presented in the SRIA, and the subsequent estimates provided in the Appendix to the ISOR, “vastly underestimate the true cost of implementation.” In the Appendix, CalRecycle presented a cost sensitivity of three scenarios. Each scenario is based on a projected disposal level. CalRecycle projected cost based on the most conservative projections of disposal (highest estimates of disposal and required recover of 289 million tons). CalRecycle also provided cost sensitivity for the economic value of recycled commodities and costs for transporting recovered material to market. CalRecycle relied upon the most conservative estimates for each of these sensitivity analyses (the highest estimate of transportation costs and lowest value for recycled commodities). The general comment that CalRecycle understates costs was made by several commenters but failed to specify how costs were underestimated or recommend an alternative method for estimated costs. Regarding comments that cite specific areas where the commenter believes costs are underestimated, those comments are addressed in separate responses.</p>
4565	Neff, H City of Elk Grove	<p>Financial Burden SB 1383 and the draft regulations represent a significant expenditure mandate to local jurisdictions with little financial support from the State of California. This regulation will require the City of Elk Grove to hire new staff to comply with outreach and enforcement requirements, and to administer a comprehensive edible food recovery program. A significant financial burden will be placed on our residents and will require us to amend our existing franchise agreement with Republic Services. With an organics collection program, our residents will see a service level change from bi-weekly collection of green waste to weekly collection of organic waste. The City estimates that our residential monthly rates could increase by as much as 20 percent or more. Our Commercial haulers have estimated the impact to local businesses to be in a similar range of approximately a 20 to 30 percent increase in solid waste costs. The fiscal impact on our residents and businesses will be immediate and significant. For businesses, the increased staff time to separate organic waste and the increased solid waste rates will represent a significant increase in overall costs. California is already struggling to attract and retain businesses; anything that further increases the cost of doing business in our State will jeopardize our ability to create and grow jobs for our residents. While these regulations may grow jobs in the recycling industry, they will drive thousands more out of the State through increased business costs. As noted in Item 1 above, we</p>	<p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p> <p>Comment noted. The SRIA provides a thorough overview of the fiscal and economic impact the implementation of the regulations will have on a statewide level. CalRecycle took a closer look and revised its fiscal and economic projections to reflect the final regulatory text. The revised estimates are presented in the Appendix to the ISOR.</p>

Comment Number	Received From	Question/Comment	Response(s)
		request that Cal Recycle take a closer look at the overall fiscal and economic impact of the proposed requirements.	
4568	Neff, H City of Elk Grove	Lack of Processing Facilities. Handling of residential food waste will require substantial improvements to existing solid waste facilities and the development of new organic waste processing facilities. By introducing food waste into the green waste, it is our understanding that the material will need to be managed inside covered facilities. According to Sacramento County, improvements at Sacramento area solid waste facilities to transfer organic wastes are estimated in the tens of millions of dollars. Further, development of new local processing facilities would likely cost in excess of \$100,000,000 and would unlikely be operational by 2022. Again, delay of the 2022 deadline for residential source separated food waste collection would reduce the significant, immediate burden on local jurisdictions, residents, and businesses and is more likely to ensure ultimate compliance.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
4569	Neff, H City of Elk Grove	Cart Requirements Article 3. Section 18984.1 requires a jurisdiction with a three-cart system to implement cart color changes by January 1, 2032. To comply with new standard cart colors for trash (gray cart), recyclables (blue cart), and organic (green) waste, jurisdictions will be required to plan and perform a costly and labor intensive cart exchange program. While jurisdictions have the option to comply with these changes when carts are beyond their useful life, the City opposes this option as it will create confusion amongst our customer base, which may add unnecessary contamination. That said, the City suggests that the transition to new compliant cart colors occur once over a short period of time.	The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery. See statement of purpose and necessity for Article 3 and for Section 18984.1 -18984.7 Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036.
4564	Neff, H City of Elk Grove and Selling, M. City of Galt	Punitive Nature of the Regulation The proposed SB 1383 regulatory language is too punitive in nature. The regulation is centered on the restriction of certain materials from certain containers. These restrictions are enforced through a series of annual inspections and reviews of organics generators, which result in violations and fines. The draft SB 1383 regulations mandate fines for all generators found in violation. These fines are detailed in 11 pages of the regulation text and range from \$50 to \$10,000 per day depending on the generator's violation. The City believes that this is the wrong approach, particularly for our residents. As noted previously, our experience has found that coercive or punitive approaches do not gain public cooperation, but	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that

Comment Number	Received From	Question/Comment	Response(s)
		rather decreases participation and increases activities to bypass the violations, such as illegal dumping. We recommend the regulatory approach emphasize enhanced generator education and incentive programs that attract generators to participate.	<p>have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.</p> <p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>
4566	Neff, H City of Elk Grove and Selling, M. City of Galt	<p>Excessive Reviews, Inspections, Characterizations, and Reporting</p> <p>CalRecycle has proposed excessive route reviews, facilities inspections, waste characterizations, and reporting requirements. More is not always better, especially with the proposed language. Quarterly route reviews, annual facility inspections, characterization of waste every 500 tons, and documentation of every interaction a service provider has with their customers adds to the cost of a jurisdiction's program without commensurate additional value. Furthermore, the draft regulations do not provide any threshold or defined level of contamination allowed during these required inspections and route reviews. We believe this will create substantial confusion amongst operators, residents, and businesses, additionally diluting the intent of the draft regulations. We ask that CalRecycle take an alternative approach to data collection and ask itself "What do we need?" as opposed to "What can we get?" when formulating these requirements. In addition, we request Cal Recycle to define acceptable levels of contamination to help facilitate clear expectations, such as contamination over 5% by weight shall be documented.</p>	<p>In order for the Department to reduce short-lived climate pollutants, enhanced tracking of material streams will be required under this article. The purpose of the revisions to the reporting requirements for haulers is to ensure facilities are able to manage compliance with the regulatory requirements. The change requires haulers to identify, at the time of delivery to the receiving facility, the type of collection stream delivered. The purpose of the revisions to the reporting requirements for transfer/processors is to ensure each jurisdiction providing a service that combines organic waste with non-organic waste is meeting the requirements of Section 18984.1(c), 18984.2, or 18984.3 of Article 3, and transporting to a high diversion facility is meeting the 50 percent and 75 percent organic content recovery rates defined in Article 6.2 Section 17409.5.1. The purpose of the changes to the reporting requirements for composting facilities and operations is to crosscheck the percentage of organic waste in residuals. The change requires each recycling or composting facility or operation to report the quarterly percentage of organic waste contained in residuals. The data required is necessary to verify whether the facility is sending more than 20 percent of residual organics to disposal on and after 2022 and 10 percent on and after 2024, as calculated pursuant to 17869(e)(5) or 17896.45 (a)(1)(E). For inbound organic material, the adopted AB 901 regulations already track potential beneficial reuse green material by jurisdiction of origin. Outside of the requirements that have already been adopted in the AB 901 regulations, source sector/origin data is not part of the proposed SB 1383 amendments to the AB 901 regulations.</p>
4567	Neff, H City of Elk Grove and Selling, M. City of Galt	<p>Unrealistic Timeline</p> <p>The goals and compliance dates required by SB 1383 are unrealistic due to the lack of existing processing facilities. There are no solid waste facilities permitted to process food waste in the City or surrounding County. Even CalRecycle estimates that 80 to 90 new facilities will be needed to meet the demands of SB 1383. Sacramento County estimates the development of local facilities will take between 5</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>and 10 years. The City of Elk Grove requests Cal Recycle explore a legislative solution to this issue. Adjustment of the 2022 deadline for source separated collection of residential organics to 2027 would result in a goal that is more achievable for jurisdictions subject to SB 1383.</p>	<p>approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4570	Neff, H City of Elk Grove and Selling, M. City of Galt	<p>Jurisdiction Edible Food Recovery Program</p> <p>The draft language requires jurisdictions to increase food generator access to food recovery organizations and (a)(4) requires jurisdictions to increase edible food recovery capacity if sufficient capacity does not exist. These requirements are beyond the scope and expertise of the City's existing jurisdictional authority.</p> <ul style="list-style-type: none"> • Rather than putting the City in the position of food recovery coordinator, consider working directly with food recovery organizations to help them increase their accessibility to food generators and their capacity to recover edible food. • Provide grant funding opportunities to Food Recovery Organizations to help them improve the efficiency of their operations. Most food recovery organizations are non-profits operating on minimal budgets. Providing funding opportunities directly to these organizations will allow them to make knowledgeable decisions on how best to use the funding to increase their accessibility and capacity. • These changes would put food recovery efforts in the hands of those who know it best and can make the best effort rather than those who are simply attempting to meet the minimum requirements. 	<p>With regard to the comment suggesting that these “requirements are beyond the scope and expertise of the city’s existing jurisdictional authority,” please refer to the Public Resources Code Section 42652.5 (a) (1)-(4) which grants CalRecycle the authority to impose requirements on jurisdictions and may include requirements to meet the goal that not less than 20% of edible food that is currently disposed is recovered for human consumption by 2025. This evinces an intent on the part of the Legislature to allow for CalRecycle to place requirements on jurisdictions to increase edible food recovery. In addition, assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. It is at the discretion of the jurisdiction to determine what jurisdiction entity is best suited to assess edible food recovery capacity and ensure that compliance with this regulatory requirement becomes a part of their scope.</p> <p>Regarding the comment, “Rather than putting the City in the position of food recovery coordinator, consider working directly with food recovery organizations to help them increase their accessibility to food generators and their capacity to recover edible food.” SB 1383 does not require jurisdictions to act as food recovery coordinators. A food recovery coordinator typically acts as a liaison between food donors and food recovery organizations and food recovery services to ensure that food is recovered and distributed to the organization and services with the greatest need for the food. SB 1383 does not require jurisdictions to do this.</p> <p>SB 1383 requires jurisdictions to implement edible food recovery programs, which includes the requirement that a jurisdiction shall increase edible food recovery capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs. Assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. If sufficient capacity does not exist, then significant amounts of edible food will continue to be disposed rather than being put to its highest and best use of helping feed Californians in need, and could jeopardize the state’s ability to achieve its 20% edible food recovery goal.</p> <p>Regarding the comment that CalRecycle should consider working directly with food recovery organizations to help them increase their capacity, CalRecycle does work directly with food recovery organizations and services across the state through CalRecycle’s Food Waste Prevention and Rescue Grant Program. CalRecycle’s Food Waste Prevention and Rescue Grant Program has</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>given the Department insight into the significant differences in edible food recovery capacity needs that exist in cities, counties, and regions across California. These significant differences in capacity needs highlight the critical need for jurisdictions to perform their own local capacity needs assessments. The California Association of Food Banks has 41-member food banks and approximately 6,000 recipient agencies that they work with. The capacity needs of these organizations and food distribution agencies can vary widely from jurisdiction to jurisdiction. For a jurisdiction to implement an effective edible food recovery program it is critical that they are familiar with the food recovery organizations and services that operate in their area and the current capacity that exists.</p> <p>With regard to the comment about grant funding, CalRecycle has a food waste prevention and rescue grant program that funds food waste prevention and food rescue projects in California. CalRecycle has awarded 20 million dollars to over 60 grantees; the majority of the grantees are food recovery organizations and food recovery services. However, CalRecycle does recognize that there currently is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included in the regulations to encourage jurisdictions to establish a sustainable funding source to help fund their food recovery program.</p>
4571	Neff, H City of Elk Grove and Selling, M. City of Galt	<p>Good Faith Effort The County requests that CalRecycle insert "good faith effort" language that may be authorized within the framework of the legislation. The short timeline for compliance with the new regulations and the significant required change in generators' behavior makes a "good faith effort" clause essential to the successful implementation of new programs for both the State and local jurisdictions.</p>	<p>Early versions of the SB 1383 legislation included a specific reference to "good faith effort" that was stripped from the final version of the bill. CalRecycle reasonably concluded that this expressed legislative intent that this enforcement standard was inapplicable.,</p>
6355	Nilsson, L., Solid Waste Solutions	<p>Requiring organic waste collection services. It is not difficult to collect organics, but there are no permitted facilities within 50 miles of Agoura Hills, Malibu, or Calabasas. So, we are trucking this material all over the state to reach permitted composting/mulching facilities to be in compliance with State Mandated programs.</p>	<p>A change to the regulatory text is not necessary. Comment noted, it is not recommending a text change.</p>
6356	Nilsson, L., Solid Waste Solutions	<p>Collection services mandatory container color requirements. Section 18985.1 three-container services, section 18984.2 two-container services, and section 18984.3 unsegregated single container services dictates that all businesses that provide waste collection, NOT limited to organic waste service, use specifically State defined color-coded bins. Refuse Haulers have practiced individual color coding to help ease drivers deciphering bin ownership. This delegation that all businesses comply to specific, blanket color coding will cause confusion with the drivers and possibly cause issues for cities where multiple haulers have overlapping service areas. It will also place undue burden onto the small family haulers as the cost of repainting and replacing all of the bins they presently have out in service is unprecedented. Not only could the costs put extreme stresses onto small businesses, it will also in turn create a huge amount of waste. There will be millions of carts (plastic containers)</p>	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery. See statement of purpose and necessity for Article 3 and for</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>that can no longer be used merely because of the color and due to the lack of recyclability of plastic, these carts will now be entering into the waste stream. The very thing we are attempting to clean up. Even if some of the metal bins get repainted, the amount of paint that would be necessary to retrieve the right colors would be unfathomable and take a lot of time.</p>	<p>Section 18984.1 -18984.7 Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. Also, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products.</p> <p>Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life.</p>
6357	Nilsson, L., Solid Waste Solutions	<p>The Bill states that there is a five-year timeframe to reach full implementation, but for cities such as Agoura Hills, Malibu, Calabasas, Ojai, Oxnard, and Carpentaria where new infrastructure is desperately needed to reach compliance, land is an issue. Not only will residents be resistant to have a factory/processing facility near to their homes, building new facilities and the compliance with the green building code will take upwards of 5 years from the planning of a new facility to and through construction. SB 1383 acknowledges the need for new infrastructure and technologies to achieve the Bill's goals but does not offer a plan in order to do so. Article 8 merely references the California Green Building Code section 4.408.1 which does not cover sites such as this would be i.e. a processing facility. The detailed regulations cover residential buildings and commercial.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>

Comment Number	Received From	Question/Comment	Response(s)
6358	Nilsson, L., Solid Waste Solutions	Edible food recovery; There is a requirement for a city to participate and track a program for edible food recovery program. Many of our cities like Agoura Hills do not have access to any local non-profits gathering food for distribution, let alone have the staff available to create a program such as this.	Section 18991.1 requires a jurisdiction to implement an edible food recovery program that includes the actions the jurisdiction will take 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. The regulations are structured so that jurisdictions will be required to begin edible food recovery capacity planning in 2022 to ensure that sufficient capacity exists to recover edible food from commercial edible food generators in the jurisdiction. CalRecycle would also like to mention that as a state agency we are heavily focused on increasing edible food recovery infrastructure and capacity in California. CalRecycle's Food Waste Prevention and Rescue Grant Program funds food waste prevention and food rescue projects across the state. To date, CalRecycle has awarded 20 million dollars to over 60 grantees.
6359	Nilsson, L., Solid Waste Solutions	<ul style="list-style-type: none"> 2022 Enforcement: Compliance and enforcement beginning in 2022; How are cities to fund the enforcement of SB 1383? For many small jurisdictions staffing is an issue as are budget constraints. 	The Legislature put provisions in SB 1383 authorizing jurisdictions to charge fees to offset the costs of implementing the regulations.
6360	Nilsson, L., Solid Waste Solutions	Procurement requirements, Article 12. The requirements for calculating the procurement of organic waste by the number of employees is unclear and not conclusive enough of employment within cities (12.B.1) and needs to be more comprehensive. Cities need to be able to effectively report for SB 1833 including the different avenues from processing organic waste staff generates other than composting, and renewable gas. (12. F. 1 and 2)	As outlined in Section 18993.1, subdivision (b), the procurement target for recovered organic waste products is calculated by multiplying the per capita procurement target by the jurisdiction population, not number of employees. Regarding "different avenues" for organic waste, CalRecycle has revised section 18993.1 to expand the list of recovered organic waste products to provide jurisdictions more flexibility.
6361	Nilsson, L., Solid Waste Solutions	<ul style="list-style-type: none"> Penalties: Penalties for this bill are very premature, and seem to step outside of the bounds of what Cal Recycle is allowed to enforce. The article cited below discusses how state and local governments cannot enforce excess penalties as ruled unanimously on by the Supreme Court. The penalties as written in Article 16 start on a range basis for daily penalties with no max limit. They also extend to evaluate the violators on intention, if revenue was gained from non-compliance. This is not only for haulers, this extends to businesses and how they manage their employee's sorting habits into the bins. This enforcement extends far beyond the normal regulations that a city typically enforces, and appears to be out of the bounds of what is legal according to the aforementioned Supreme Court Ruling (link below). o - See more at: http://www.cacities.org/Top/News/News-Articles/2019/February/League-Urges-Cities-to-Comment-by-March-4-on-New-0#sthash.EDVgkCAA.dpuf 	The initial language in Section 18997.2 regarding administrative civil penalties imposed by local jurisdictions was revised to be consistent with Government Code Sections 25132, 36900, and 53069.4 in response to comments.
3443	Noble, D., Association of Compost Producers	Performance-based regulatory framework: If the regulations were crafted to measure outcomes (e.g. GHG reduction) rather than only material flow from feedstocks to bioproducts, this would make more flexible the methods for reaching the SLCP reduction objectives which are the purpose of this regulatory package. We are envisioning another method of measuring those directly. However, it may be possible to build conversion factors that convert the materials management data into SLCP reduction performance. We have not created specific wording or conversion factors to make this workable, but we recommend that CalRecycle provide these, and ACP is prepared to participate in a collaborative industry working	Comment noted. CalRecycle declines to include regulations based on GHG reduction because that is inconsistent with the statutory mandate on CalRecycle to divert organic material from landfills rather than achieve a quantifiable GHG reduction.

Comment Number	Received From	Question/Comment	Response(s)
		group to do this work and ensure that it is oriented to building markets rather than slowing down necessary further market development.	
3444	Noble, D., Asociation of Compost Producers	Add “certified compost”, “compost end-use products” to the definitions.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products.
3445	Noble, D., Asociation of Compost Producers	Beyond only compost and biogas, don’t inadvertently limit bioproduct markets made from bioresource residuals (organic waste), e.g. mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals all exist in the current markets alongside compost and biogas and need to be recognized in these regulations.	Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. CalRecycle disagrees with the recommendation to allow the various additional products mentioned in the comment due to lack of verifiable conversion factors. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.
3446	Noble, D., Asociation of Compost Producers	Make the “Organic wastes” definitions consistent in various parts of the regulation. A specific example is given with wording recommendations,	CalRecycle declines making a change to the "organic waste" definition because the comment doesn't indicate why a change is necessary.
3447	Noble, D., Asociation of Compost Producers	Add “Market Capacity” in addition to “Production Capacity” in a new definitions to make “Organic Waste Recycling Capacity” a balanced definition, referring to both “supply” and “demand”.	CalRecycle declines the suggestion because these are terms that do not appear in any meaningful way in the regulations.
3448	Noble, D., Asociation of Compost Producers	Contamination: Measuring contamination is key to determining the difference between a feedstock (unrefined organic waste, aka bioresource) and a finished, purified, refined bioproducts (e.g. compost end-use products, biogas, animal feed, etc.) measurable product purity specifications and standards, and a “waste” that must be landfilled.	Comment noted. Comment is not commenting on the regulatory language.
3449	Noble, D., Asociation of Compost Producers	Procurement: Procurement of bioproducts is further articulated in the following specific recommendations.	Comment noted. This comment is introducing another subsequent comment
3450	Noble, D., Asociation of Compost Producers	Add this definition.... “Certified Compost” – compost that has been tested for all the key parameters of what makes acceptable compost, e.g. the “Seal of Testing Assurance” and manufactured at a permitted compost facility. [for reference see www.certifiedcompost.com] Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products made from “bioresources” raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the

Comment Number	Received From	Question/Comment	Response(s)
		<p>above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.</p>	<p>recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
3451	Noble, D., Asociation of Compost Producers	<p>Add this definition.... “Compost end-use products” – end use products that are made with compost as a primary ingredient that has been manufactured and/or formulated using Certified Compost; including but not limited to compost soil blends, garden soil amendment, potting soil, bioswale engineered soils, turf grass top dressing, compost erosion control socks, etc. Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.</p>	<p>CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
3452	Noble, D., Asociation of Compost Producers	<p>Add this definition.... “Chip & grind material” – these definitions already exist in other statutes, it is not composted, but is sold in the market as a viable “mulch” (ground cover) to increase water infiltration and soil moisture retention, as well as for aesthetic enhancement of landscapes. Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.</p>	<p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. CalRecycle disagrees with replacing “organic waste” with the suggested terms listed in the comment. “Organic waste” is the term used in statute.</p>
3453	Noble, D., Asociation of Compost Producers	<p>Add this definition.... “Compost Overs” – the large wood material particles that have been composted in a permitted compost facility but are larger than 2”, i.e. 2” plus composted material. Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the</p>	<p>CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants.</p>

Comment Number	Received From	Question/Comment	Response(s)
		marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.	However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products.
3454	Noble, D., Asociation of Compost Producers	Add this definition.... “Compostable materials” – means any bioresource and bioproduct, e.g. eating utensils, service ware, etc., that is compostable in a permitted compost facility. Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.
3455	Noble, D., Asociation of Compost Producers	Add this definition.... “Bioproduct” – any product manufactured from a bioresource feedstock, includes but is not limited to: compost, chip & grind material (mulch), composted overs, biofertilizer, biochar, biogas, biochemicals, biomaterials. Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
3456	Noble, D., Asociation of Compost Producers	Add this definition.... “Bioresource” – another term for “organic waste” (denotes a ‘resource’, rather than a ‘waste’). Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products raises the possibility that evaluation on an individual basis would be

Comment Number	Received From	Question/Comment	Response(s)
		<p>above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.</p>	<p>overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
3457	Noble, D., Asociation of Compost Producers	<p>Organic Waste Recycling Capacity Add an explicit definition for “Organic Waste Recycling Capacity” in Section 18982. Definitions, specifically: 51) “Organic Waste Recycling Capacity” means processing capacity for organic wastes generated within a specific Jurisdiction, called ‘supply capacity’ and the land area or other product use capacity (e.g. for biogas, biochar, etc.) that exists within a specific Jurisdiction. Net-zero capacity in a jurisdiction would mean that the supply = demand for all bioresources generated and bioproducts produced in that jurisdiction. Rationale: There is a “market capacity” problem at the local level by not accounting for ALL the organic residuals (waste) that are generated in each County or jurisdiction, since all those materials must be recycled, i.e. not landfilled, or polluting air, water or land. The conscientious balancing of both supply and demand will make a given plan transparent for each County and the jurisdictions within that County.</p>	<p>CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1. Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor’s Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).</p>
3458	Noble, D., Asociation of Compost Producers	<p>jurisdictions within that County. Difference in definition between “Section 18982. Definition (46)” and Section 18992.1. Organic Waste Recycling Capacity Planning special definition (e) Section 18982. Definitions (46) “Organic waste” means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. [the bolded items in this definition do not exist in the abridged definition used for capacity planning] Recommend: Add “Compostable materials” to the above definition of “organic waste”</p>	<p>CalRecycle declines to add "compostable materials" to the definition of organic waste. Virtually all organic waste is compostable material so it is unclear why the addition is necessary if it is implicit in the existing definition.</p>
3459	Noble, D., Asociation of Compost Producers	<p>Section 18992.1. Organic Waste Recycling Capacity Planning (e) For the purposes of this section, organic waste shall only include the following type of organic waste: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and biosolids. Question: Why have the “organic textiles and carpets, lumber, manure, and sludges” been excluded from the capacity planning at the county level? Comment: There is a compost “market capacity” problem at the local level by not accounting for ALL the organic residuals (waste) that are generated in each County, since all those materials must be recycled, i.e. not landfilled, or polluting air, water</p>	<p>CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1. Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>or land. Even if they are not currently landfilled, their recycling must collectively not harm the environment. By integrating organic waste from agriculture (especially manure) and natural & working lands (e.g. vegetation management on power lines, or dead trees in the forests, etc.) organics residual planning can occur within a “whole systems perspective” ... both rural and municipal market areas. Especially in Counties where there is a large area of rural lands (e.g. Sonoma, Marin, Ventura, etc.) relative to urban and suburban homes and residences, the balance will tip toward those lands and markets. This is in contradistinction to the highly urbanized counties, e.g. Orange, San Francisco, Alameda, etc. This problem does not refer to the 22 or so of the designated “rural” Counties that are already potentially exempt, as they have much more land for managing these materials, so they wouldn’t either be landfilled, or improperly land applied.</p> <p>Recommendation:</p> <ol style="list-style-type: none"> 1. Delete: (e) For the purposes of this section, organic waste shall only include the following type of organic waste: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and biosolids. 2. Add new Definition (in Section 18982. Definitions) – “organic waste recycling infrastructure capacity” – is both the organic waste processing (or manufacturing/supply), e.g. compost production, anerobic digestion, etc., and the available land area, energy, animal feed, etc. (i.e. market capacity, or demand potential) for recycled organic products. <p>Rationale: Manage ALL the organic wastes at the County jurisdiction level that are both generated as well as imported into each County, including their respective jurisdictions who are both generating organic waste, as well as procuring the bioproducts (compost, renewable natural gas, and any other bioproducts, e.g. animal feed, biochar, biomaterials, biochemicals, etc.)</p>	<p>with the Governor’s Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).</p>
3460	Noble, D., Asociation of Compost Producers	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>Recommendation:</p> <ol style="list-style-type: none"> 1. Delete: (e) For the purposes of this section, organic waste shall only include the following type of organic waste: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and biosolids. 2. Add new Definition (in Section 18982. Definitions) “organic waste recycling infrastructure capacity” – is both the organic waste processing (or manufacturing/supply), e.g. compost production, anerobic digestion, etc., and the available land area, energy, animal feed, etc. (i.e. market capacity, or demand potential) for recycled organic products. <p>Rationale: Manage ALL the organic wastes at the County jurisdiction level that are both generated as well as imported into each County, including their respective jurisdictions who are both generating organic waste, as well as procuring the bioproducts (compost, renewable natural gas, and any other bioproducts, e.g. animal feed, biochar, biomaterials, biochemicals, etc.)</p>	<p>CalRecycle declines the suggested change as unnecessary. The existing language serves the purpose of reflecting the types of organic waste that should be considered in capacity planning and is necessary to ensure that jurisdictions do not estimate capacity to process types of organic waste that aren't typically part of the solid waste collection stream.</p>

Comment Number	Received From	Question/Comment	Response(s)
3461	Noble, D., Asociation of Compost Producers	<p>CONTAMINATION</p> <p>Recommendation: Add new (e) to replace the (e) that we struck through above. [See Comment 3459] Add as follows: (e) Each public jurisdiction generating more than 250 tons per month shall pay the receiving compostable materials handling operation (CMHO) \$250.00 to perform a load-check once per quarter. The CMHO shall check a visibly contaminated load once per quarter for each Public Jurisdiction. The load shall be separated between Compostable organics and Non-compostable with the non-compostable's then weighed and reported as a percentage of the total gross load weight. These two numbers shall be reported to CalRecycle and EA/LEA. Alternatively, this could be added to the "Article 13. Reporting. Section 18994.1. Initial Jurisdiction Compliance Report", or one of the other reporting sections.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
3462	Noble, D., Asociation of Compost Producers	<p>Section 18992.1 Additional Topic: Waste Decontamination Strategy</p> <p>Some general concepts that we haven't put into regulatory language to be considered:</p> <p>Counties shall develop strategies to decontaminate organic waste by reducing glass, plastic, concrete or non-compostable materials from organic waste streams. Counties shall seek decontamination proposals from waste haulers and waste generators and shall coordinate planning steps, community outreach and contamination measurement practices.</p> <p>Counties shall coordinate planning efforts with jurisdictions and submit written decontamination plans to their county waste administrators. Counties will submit a report of decontamination planning to CalRecycle along with descriptions of how to measure and gather decontamination statistics.</p> <p>Rationale: decontamination negatively impacts costs and value of products and thereby influences the successful commercial diversion implementation of organics.</p>	<p>A change in the regulatory text is not necessary. CalRecycle agrees that contamination of organic waste impacts product value and the successful diversion of organics from landfills. CalRecycle already has incorporated specific provisions that responsible cities and counties must implement to reduce contamination, along with provisions related to solid waste facility and hauler responsibilities to reduce contamination. The suggestions in this comment would place more responsibility at the County level only. This is inappropriate because County governments are only responsible for the unincorporated areas of the County, not for programs run by individual cities.</p>
3463	Noble, D., Asociation of Compost Producers	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>(b) (1) Per capita procurement target = 0.07 tons of organic waste per California resident per year.</p> <p>Comment: We are generally supportive of this new metric. Some numbers of representative cities for procurement: SEE CHART IN ORIGINAL LETTER.</p> <p>While these numbers seem reasonable, they may be a bit low to meet the state's recycling goals. However, once they are tracked for a few year, we will all have a better idea of who workable this is.</p> <p>(f) For the purposes of this article, the recovered recycled organic waste products that must be procured are:</p> <p>Recommendation: Add the following words to this item (f) [this is supported by the two new recommended definitions of "Certified Compost" and "Compost end-use products":</p> <p>(1) Compost or Compost end-use products that has been tested and Certified at a permitted compost facility in California, specifically:</p>	<p>The per capita procurement target is appropriate as is; this was calculated using government's share of the statewide gross domestic product (GDP) and the projections of state population and organic waste diversion needed in 2025. In order to meet the 2025 organic waste diversion target mandated by SB 1383, jurisdictions will be required to procure a percentage of the diverted organic waste in the form of recovered organic waste products. As procurement will require local governments to create markets for these products, CalRecycle determined it would be appropriate to utilize the percentage of government's share of the statewide GDP, which has averaged 13% over the most recent 10 years of data from the United States Bureau of Economic Analysis, as the amount of diverted organic waste that must be procured by jurisdictions in the form of recovered organic waste products. Although higher procurement of recovered organic waste products by jurisdictions beyond the required per capita procurement target is encouraged, CalRecycle does not find it appropriate to increase this requirement beyond government's share of the GDP.</p> <p>CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(i) Submit the compost producer's compost technical data sheet including test results and seal of testing assurance certificate before application.</p> <p>(ii) Compost producers must be permitted by the Department of Resources Recycling and Recovery, Local Enforcement Agencies, and any other State and local agencies that regulate solid waste plants. If exempt from State permitting provisions, the composting plant must certify it complies with the guidelines and procedures for production of compost under 14 CA Code of Regulations, Division 7, Chapter 3.1. Compost producers must be participants in the United States Composting Council's seal of testing assurance program. [this could be added to a new definition of "permitted compost producer"</p> <p>(2) Renewable natural gas transportation fuel</p> <p>(3) Other biorproducts approved by the Department, based on agreed upon standards for production and end-use applications.</p>	<p>However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products made from "bioresources" raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
3464	Noble, D., Asociation of Compost Producers	<p>We recommend the following concept that needs to be put into regulatory wording: Section 18993.1 Additional Topic: Recovered Organic Waste Products Procurement</p> <p>The Department shall identify and work with procurement administrators in city and county jurisdictions to coordinate the acquisition of bioproducts ["waste products"] derived from bioresources ["organic diversion waste"] from landfills including:</p> <ul style="list-style-type: none"> • Procurement targets such as regional city parks and recreation administrators, public school district facilities managers, public golf course managers, government natural lands managers, and municipal road departments; for applications including but not limited to: • Water efficient landscaping, stormwater management and erosion control, fire remediation, etc. <p>The Department shall conduct an outreach program to procurement targets and create a report of waste products that have been successfully procured by local targets.</p> <p>The Department shall also contact potential procurement targets of energy products (e.g. municipal bus lines, county and city vehicles powered by natural gas, public utility agency vehicles, and city maintenance vehicles powered by natural gas) created from waste organics and report results in the same way described in the procurement targets mentioned above.</p> <p>Impact/Rationale: By contacting other government agencies in the jurisdiction, procurement of products made from diverted organics waste become more sustainable and can find a long-term market to support the organics diversion effort.</p>	<p>CalRecycle generally agrees that outreach and education to procurement administrators is beneficial, but will not be making formal changes to the regulatory language. After the regulations are finalized, CalRecycle plans to provide additional guidance and tools to jurisdictions.</p>
3823	Noble, D., Association of Compost Producers	<p>Again, we want to reinforce our context differences between CalRecycle and generically as material management "rules-based" vs. a GHG reduction "performance-based" approach. The comments reinforced in this letter which we will express at the Public Hearing, are focused on some key definition changes and will serve to integrate the actions of the compost producer industry with their local jurisdictions.</p>	<p>Comment noted. It is beyond CalRecycle's authority to put GHG reduction performance requirements in these regulations since regulatory authority is limited to organic waste diversion from landfills.</p>

Comment Number	Received From	Question/Comment	Response(s)
3824	Noble, D., Association of Compost Producers	In general we see three main approaches to improve these regulations to make them more integrated and performance based, at the local level: 1. "Capacity" should include both supply and demand, not merely supply.	CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1. Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor's Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).
3825	Noble, D., Association of Compost Producers	In general we see three main approaches to improve these regulations to make them more integrated and performance based, at the local level: 2. Operationally integrate supply planning with demand assessment and planning (procurement)	A change to the regulatory text is not necessary. A text change is not necessary for the following reason. This comment suggests that in planning to identify organic waste recycling capacity that is verifiable available to the jurisdiction, a finite and knowable unit of measure, jurisdictions should also be required to estimate end-use capacity that exists within the jurisdiction for products made through the recycling of organic waste. CalRecycle disagrees with the given rationale, and finds that such a requirement would impose a significant burden on local jurisdictions while providing little tangible value. Such an assessment would likely require significant investment in outside consulting services to conjecture estimates that cannot be proven accurate. Any value that is provided would be difficult to justify as essential to achieving the SB 1383 targets. As noted above organic waste recycling capacity, e.g. throughput at organic waste recycling facilities that is permitted and verifiably available to a jurisdiction is finite and quantifiable. Given that, local governments are required to provide services that collect and transport organic waste to organic waste recycling facilities, it is reasonable and justifiable to require jurisdictions to estimate current and future capacity at those facilities that is available to the jurisdiction. These estimates have a tangible relationship to the other requirements of this article and will help the state and jurisdictions estimate the need for additional and expanded capacity on a regular basis. Regarding estimates of end-use or "supply capacity," while local jurisdictions are subject to procurement requirements, they are not required to secure end-uses for all of the recovered organic waste products developed from the organic waste they generate. The premise of requiring jurisdictions to estimate "supply capacity" appears to assume that all recycled organic waste products must be used in their home jurisdiction. While that is a desirable outcome, it is not a requirement of the regulations.
3826	Noble, D., Association of Compost Producers	In general we see three main approaches to improve these regulations to make them more integrated and performance based, at the local level: 3. Collaborate with local stakeholders to implement, with guidance from CalRecycle	Comment noted. The commenter is suggesting that CalRecycle provide collaborative guidance to implement the regulations but does not make a specific suggestion on regulatory language or regulatory process.
3827	Noble, D., Association of Compost Producers	1. Article 11 - Capacity Building a. Add "Capacity" = Supply Capacity + Market Capacity! Do this because "capacity" is both "supply" and "demand", NOT merely supply. See specific definition recommendation below.	CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as

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			<p>proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1.</p> <p>Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor’s Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).</p>
3828	Noble, D., Association of Compost Producers	<p>b. Proactively collaborate with stakeholders to implement the “capacity plan”</p> <ul style="list-style-type: none"> ☐ ACP to collaborate both with CalRecycle at the state level, and jurisdictions at the local level to provide ongoing assistance to integrate “capacity (supply + demand) planning” with local planning and development efforts. This can be accomplished via ACP’s regional membership support network) ☐ Develop relationship to General Plans - Guidelines - as a “Project” within the General Plan. There is a need to integrate capacity planning with other planning, see the local General Plans, see “OPR_COMPLETE_7.31.17”) www.calrecycle.ca.gov/publications/documents/recycling/2011009.pdf ☐ Consider the use of “Regenerative Development & Design” as a process for “General Planning” and “City/County/Regional” development, including organics facilities and compost markets. 	<p>CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1.</p> <p>Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor’s Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).</p>
3829	Noble, D., Association of Compost Producers	<p>2. Article 12 Procurement Regulations</p> <p>a. Since the recycled organics (bioproducts, especially compost) markets are replacing the landfilling of these resources by beneficial use, jurisdictions need to work together with local compost producers on this. They can’t simply leave it up to the Private Sector, especially given the Public Sector, including County, State, and Federal Lands, have more land mass than the entire private sector combined!</p> <ul style="list-style-type: none"> ☐ Build on the “draftsb1383infrastructurandmarketanalysisreport” ☐ Build compost use/applications (aka markets) that address many needs that Municipalities have 	<p>CalRecycle generally agrees that jurisdictions should work together with producers of recovered organic waste products to build markets and plan for the procurement requirements. If the written “agreements” made with a direct service provider, or other manner of written authorization to procure on behalf of a jurisdiction, contains the necessary aspects of a typical contract, this may be considered a contract between the direct service provider and jurisdiction. Regardless of the term used, whether it be contract, agreement, etc., CalRecycle requires jurisdictions to obtain this written record, which should contain typical components of a contract, such that it is a written document binding two entities with terms and conditions. This is not only necessary to ensure a legally binding obligation between the direct service provider and jurisdiction, but is in the best interest of the jurisdiction, as it is they who remain ultimately responsible for carrying out their specific jurisdictional responsibilities under Chapter 12: Short-lived Climate Pollutants. Section 18981.2 outlines this implementation requirement on jurisdictions and establishes that if a jurisdiction designates a public or private entity to fulfill any of its responsibilities under Chapter 12, such as procurement, the jurisdiction must maintain appropriate records of all agreements and contracts, or other records, regarding the designation [see Section 18981.2, subdivision (d)].</p> <p>A designee, such as a hauler, is eligible to count towards a jurisdiction’s procurement target. The current draft regulations allow a jurisdiction to meet its recovered organic waste product procurement target through a direct service provider, who procures recovered organic waste product(s) on behalf of that jurisdiction. Section 18993.1(e)(2) clarifies this and allows a separate entity that has a written contract or agreement with the jurisdiction to procure recovered organic waste product(s) to help fulfill the jurisdiction’s procurement target. Similarly, Section 18981.2 establishes that a jurisdiction may designate a public or private entity to fulfill specific</p>

Comment Number	Received From	Question/Comment	Response(s)
			jurisdictional responsibilities outlined in Chapter 12: Short-lived Climate Pollutants, which includes procurement of recovered organic waste products. As Section 18981.2(b)(1) and the definition of “designee” [Section 18982 (a)(15)] establish, this designation can be made through a contract with a hauler or other public or private entity.
3830	Noble, D., Association of Compost Producers	<p>Identify and train local procurement agents to participate in the many beneficial applications of compost into local functions where they are produced.</p> <p>Water Resource Management Objectives:[1]</p> <ul style="list-style-type: none"> · Reduce Water Demand: <ul style="list-style-type: none"> • Increase agriculture water use efficiency • Increase urban landscape water use efficiency <p>Improve Flood Management: Enhance riparian vegetation management to slow, sink, store and manage water in the soil</p> <p>Increase Water Supply: <ul style="list-style-type: none"> • Engage in conjunctive vegetation and groundwater management via healthy soil • Increase ecosystem health by enhancing soil health with compost • Beneficially use biosolids from recycled water facilities to generate your region’s soils </p> <p>Improve Water Quality: <ul style="list-style-type: none"> • Prevent pollution by filtering surface water and infiltration into groundwater while replenishing the water supply • Manage urban stormwater runoff and protect against erosion (MS4 plans & permit compliance) • Industrial stormwater management compliance of all your industrial facilities. </p> <p>Practice Resource Stewardship: <ul style="list-style-type: none"> • Cultivated land and rangeland soil enhancement • Ecosystem restoration of deforested, cultivated and damaged rangelands • Forest lands soils management that is at once regenerative and sustainable • Recharge area soil protection and healthy vegetation surrounding your infiltration basins. • Sediment management and erosion control of exposed and disturbed soils </p> <p>Fire Damaged Lands:2 <ul style="list-style-type: none"> • Repair fire damaged lands, protect water quality and increase water quantity • Increase compost use for slope stabilization & establishing vegetation during wildfire debris cleanup efforts. </p> <p>Climate Change:3 - SB 1383 Short lived climate pollutant <ul style="list-style-type: none"> • Reduce Short Live Climate Pollution (SLCP) via organics diversion and compost production & use • Increase carbon sequestration by supporting carbon ranching and farming. </p> <p>Waste Reduction:4 - AB 1826, AB 876, AB 901, SB 1383, <ul style="list-style-type: none"> • Food scrap recycling system expansion • Organics management infrastructure planning and development </p>	CalRecycle generally agrees that training local procurement agents regarding the benefits of compost application is valuable.

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> • Organics materials management and reporting within local communities • Diverting organic waste from landfills and producing a valuable product Environmental Justice:5 Pull back out the CalRecycle Document pg 20 & 22. · Grow green jobs, improve environmental health and economics of disadvantaged communities	
3831	Noble, D., Association of Compost Producers	Since the local carbon, nutrient and water economy are already integrated and circular at the local level, the application uses development will need to be integrated throughout each local organics value cycle, baring any other barriers to market integration that keep that from being environmentally sound. That means that Article 12 must not only be integrated with Article 11 (supply and demand) it must be integrated with the other articles in this regulation: Article 3. Organic Waste Collection Services Article 4. Education and Outreach Article 5. Generators of Organic Waste Article 6. Biosolids Generated at a Publicly Owned Treatment Works (POTW) Article 7. Regulation of Haulers Article 8. Cal-Green Building Standards Article 9. Locally Adopted Standards and Policies Lastly, this should also be integrated with the local compost producers, linking local supply with demand.	A change to the regulatory text is not necessary. A text change is not necessary for the following reason. This comment suggests that in planning to identify organic waste recycling capacity that is verifiable available to the jurisdiction, a finite and knowable unit of measure, jurisdictions should also be required to estimate end-use capacity that exists within the jurisdiction for products made through the recycling of organic waste. CalRecycle disagrees with the given rationale, and finds that such a requirement would impose a significant burden on local jurisdictions while providing little tangible value. Such an assessment would likely require significant investment in outside consulting services to conjecture estimates that cannot be proven accurate. Any value that is provided would be difficult to justify as essential to achieving the SB 1383 targets. As noted above organic waste recycling capacity, e.g. throughput at organic waste recycling facilities that is permitted and verifiably available to a jurisdiction is finite and quantifiable. Given that, local governments are required to provide services that collect and transport organic waste to organic waste recycling facilities, it is reasonable and justifiable to require jurisdictions to estimate current and future capacity at those facilities that is available to the jurisdiction. These estimates have a tangible relationship to the other requirements of this article and will help the state and jurisdictions estimate the need for additional and expanded capacity on a regular basis. Regarding estimates of end-use or “supply capacity,” while local jurisdictions are subject to procurement requirements, they are not required to secure end-uses for all of the recovered organic waste products developed from the organic waste they generate. The premise of requiring jurisdictions to estimate “supply capacity” appears to assume that all recycled organic waste products must be used in their home jurisdiction. While that is a desirable outcome, it is not a requirement of the regulations.
3832	Noble, D., Association of Compost Producers	Add seven (7) new definitions: “Certified Compost” – compost that has been tested for all the key parameters of what makes acceptable compost, e.g. the “Seal of Testing Assurance” and manufactured at a permitted compost facility. [for reference see www.certifiedcompost.com]	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants.
3833	Noble, D., Association of Compost Producers	“Compost end-use products” – end use products that are made with compost as a primary ingredient that has been manufactured and/or formulated using Certified Compost; including but not limited to compost soil blends, garden soil amendment, potting soil, bioswale engineered soils, turf grass top dressing, compost erosion control socks, etc.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. CalRecycle disagrees with the need to add definitions or examples of specific end uses in the regulatory language as recommended. For example, a jurisdiction has the flexibility to use

Comment Number	Received From	Question/Comment	Response(s)
			compost for its local needs, which could be as varied as erosion control, school and community gardens, or a compost giveaway. It is overly burdensome and not feasible to list all the possible compost uses in the regulations.
3834	Noble, D., Association of Compost Producers	“Chip & grind material” – these definitions already exist in other statutes, it is not composted, but is sold in the market as a viable “mulch” (ground cover) to increase water infiltration and soil moisture retention, as well as for aesthetic enhancement of landscapes.	Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
3835	Noble, D., Association of Compost Producers	“Compost Overs” – the large wood material particles that have been composted in a permitted compost facility but are larger than 2”, i.e. 2” plus composted material.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. CalRecycle disagrees with the need to add definitions or examples of specific end uses in the regulatory language as recommended. For example, a jurisdiction has the flexibility to use compost for its local needs, which could be as varied as erosion control, school and community gardens, or a compost giveaway. It is overly burdensome and not feasible to list all the possible compost uses in the regulations.
3836	Noble, D., Association of Compost Producers	“Compostable materials” – means any bioresource and bioproduct, e.g. eating utensils, service ware, etc., that is compostable in a permitted compost facility.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. CalRecycle disagrees with the need to add definitions or examples of specific end uses in the regulatory language as recommended. For example, a jurisdiction has the flexibility to use compost for its local needs, which could be as varied as erosion control, school and community gardens, or a compost giveaway. It is overly burdensome and not feasible to list all the possible compost uses in the regulations.
3837	Noble, D., Association of Compost Producers	“Bioproduct” – any product manufactured from a bioresource feedstock, includes but is not limited to: compost, chip & grind material (mulch), composted overs, biofertilizer, biochar, biogas, biochemicals, biomaterials.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. CalRecycle disagrees with the need to add definitions or examples of specific end uses in the regulatory language as recommended. For example, a jurisdiction has the flexibility to use compost for its local needs, which could be as varied as erosion control, school and community gardens, or a compost giveaway. It is overly burdensome and not feasible to list all the possible compost uses in the regulations.

Comment Number	Received From	Question/Comment	Response(s)
3838	Noble, D., Association of Compost Producers	<p>“Bioresource” – another term for “organic waste” (denotes a ‘resource’, rather than a ‘waste’).</p> <p>Rationale: “Organic waste” is defined and used throughout this regulation package. While that’s acceptable, the industry terminology that’s being adopted in the marketplace is “bioresources”, or “bioresiduals”. The products that are manufactured from bioresources are being called “bioproducts”. As indicated in the above definitions, there are at least half a dozen bioproduct categories of value in addition to “compost” and “biogas”; for example: mulch, woody material (composted overs, or uncomposted woodchips), biofertilizers, biochar, animal feed, materials and chemicals. For these regulations to be relevant into the 2020’s, we recommend the inclusion of these bioproduct definitions in these regulation package. Otherwise, they will start to appear out of date, almost as they are written.</p>	<p>CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. CalRecycle disagrees with the need to add definitions or examples of specific end uses in the regulatory language as recommended. For example, a jurisdiction has the flexibility to use compost for its local needs, which could be as varied as erosion control, school and community gardens, or a compost giveaway. It is overly burdensome and not feasible to list all the possible compost uses in the regulations.</p>
3839	Noble, D., Association of Compost Producers	<p>Add an explicit definition for “Organic Waste Recycling Capacity” in Section 18982. Definitions, specifically:</p> <p>(51) “Organic Waste Recycling Capacity” means processing capacity for organic wastes generated within a specific Jurisdiction, called ‘supply capacity’ and the land area or other product use capacity (e.g. for biogas, biochar, etc.) that exists within a specific Jurisdiction. Net-zero capacity in a jurisdiction would mean that the supply = demand for all bioresources generated and bioproducts produced in that jurisdiction.</p>	<p>CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1.</p>
3840	Noble, D., Association of Compost Producers	<p>Difference in definition between “Section 18982. Definition (46)” and Section 18992.1. Organic Waste Recycling Capacity Planning special definition (e) Section 18982. Definitions</p> <p>(46) “Organic waste” means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. [the bolded items in this definition do not exist in the abridged definition used for capacity planning]</p> <p>Recommend: Add “Compostable materials” to the above definition of “organic waste”</p>	<p>Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor’s Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).</p>
3841	Noble, D., Association of Compost Producers	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>(e) For the purposes of this section, organic waste shall only include the following type of organic waste: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and biosolids.</p> <p>Question: Why have the “organic textiles and carpets, lumber, manure, and sludges” been excluded from the capacity planning at the county level?</p> <p>Comment: There is a compost “market capacity” problem at the local level by not accounting for ALL the organic residuals (waste) that are generated in each County, since all those materials must be recycled, i.e. not landfilled, or polluting air, water or land. Even if they are not currently landfilled, their recycling must collectively not harm the environment. By integrating organic waste from agriculture (especially</p>	<p>CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1.</p> <p>Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor’s Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>manure) and natural & working lands (e.g. vegetation management on power lines, or dead trees in the forests, etc.) organics residual planning can occur within a “whole systems perspective” ... both rural and municipal market areas. Especially in Counties where there is a large area of rural lands (e.g. Sonoma, Marin, Ventura, etc.) relative to urban and suburban homes and residences, the balance will tip toward those lands and markets. This is in contradistinction to the highly urbanized counties, e.g. Orange, San Francisco, Alameda, etc. This problem does not refer to the 22 or so of the designated “rural” Counties that are already potentially exempt, as they have much more land for managing these materials, so they wouldn’t either be landfilled, or improperly land applied.</p> <p>Recommendation: 1) Delete: (e) For the purposes of this section, organic waste shall only include the following type of organic waste: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and biosolids</p>	
3842	Noble, D., Association of Compost Producers	<p>2. Add new Definition (in Section 18982. Definitions) – “organic waste recycling infrastructure capacity” – is both the organic waste processing (or manufacturing/supply), e.g. compost production, anerobic digestion, etc., and the available land area, energy, animal feed, etc. (i.e. market capacity, or demand potential) for recycled organic products.</p> <p>Rationale: Manage ALL the organic wastes at the County jurisdiction level that are both generated as well as imported into each County, including their respective jurisdictions who are both generating organic waste, as well as procuring the bioproducts (compost, renewable natural gas, and any other bioproducts, e.g. animal feed, biochar, biomaterials, biochemicals, etc.)</p>	<p>CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1.</p>
3375	Northrup, L., City of Agoura Hills	<p>New infrastructure capacity and planning: As you are aware, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. While many cities recognize and support the collection of organics, many cities have expressed concern over the challenge to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>

Comment Number	Received From	Question/Comment	Response(s)
3376	Northrup, L., City of Agoura Hills	<p>Funding: Lack of sufficient funds continues to be among the major challenge local governments face in the effort to implement new organic waste diversion programs. The City of Agoura Hills and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3377	Northrup, L., City of Agoura Hills	<p>Enforcement: The regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.</p>	<p>Comment noted, the comment does not recommend a regulatory change.</p>
3378	Northrup, L., City of Agoura Hills	<p>Procurement. New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. Again, as the City does support the need for organic waste collection, we respectfully ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.</p> <p>The City of Agoura Hills further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny</p>	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>under Prop. 26, it is questionable whether a city would have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, the City of Agoura Hills requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>Finally, according to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate. Regarding "substantial additional costs", a change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "substantial additional costs".</p> <p>CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p>
3379	Northrup, L., City of Agoura Hills	<p>Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date</p>	<p>CalRecycle disagrees with the comment's proposal to consider compost "overs" a recovered organic waste product. The procurement requirements are designed to help the state achieve the organic waste disposal targets by requiring the procurement of products intentionally created through the recycling of organic waste. This helps achieve the statutory targets by incentivizing recycling of organic waste such as digestate, food waste, green material which through their use as feedstock to create recovered organic waste products that can be procured and count toward a jurisdiction's recovered organic waste product procurement target.</p> <p>All of the methods for creating recovered organic waste products identified in the regulations can also result in byproducts or rejected material that are or include organic waste as defined in the regulations. "Overs", or material typically screened out compost piles, are considered a byproduct. The rejected materials and byproducts of organic waste recycling may include or be comprised entirely of organic waste; however, they are not in and of themselves "recovered organic waste products" as defined in the regulations. Organic waste that is present at a compost facility is not compost, much less a recovered organic waste product simply because it is present at the facility. Large wood logs are an organic waste, as defined in the regulation. In this case the logs rejected from the composting process as overs, could be further processed to create mulch. Mulch produced at one of the facilities identified in 18993.1(f)(4)(B) is considered a recovered organic waste product, however the feedstock for the mulching operation, which may be identical to rejected byproducts from a transfer operation or composting operation (e.g. the large wood log from the composting overs) is organic waste. The feedstock of organic waste is not a recovered organic waste product as defined in the regulation.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Further there are technical challenges with considering byproducts of organic waste processing as recovered organic waste products. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. Each recovered organic waste product has a conversion factor that is used to determine the amount of a product that must be procured in order for a jurisdiction to meet the recovered organic waste product procurement target. Such conversion factors cannot uniformly be established for byproducts. Many byproducts are not wholly organic (e.g. overs may not include non-organic material mixed in with organic material which must be further screened out), and the generation of a ton of byproduct would vary dramatically by facility. A compost operation with a very clean uniform feedstock may produce fewer overs per ton of feedstock than a facility with heavily contaminated feedstock.</p>
5033	Nudd, G. Bay Area Air Quality Management District	<p>We recommend an expansion of the compliance options included under Article 12 (Procurement of Recovered Organic Waste Products). Section 18993.1 of the draft regulations contains a requirement that can be satisfied through procurement of one of the following products of organics recovery: (1) Compost, or (2) Renewable transportation fuel. We encourage CalRecycle to include procurement of these additional products as compliance options in subsection (f): (3) Biogas, (4) Renewable natural gas, (5) Biochar, and (6) Digestate. The draft text in subsection (g) states that "One ton of organic waste in a recovered organic waste product procurement target shall constitute: (A) 19 diesel gallon equivalents, or 'DGE,' of renewable transportation fuel. (B) 0.58 tons of compost." Data from industrial operations in the Bay Area suggest that one ton of organic feedstock may be equivalent to the following recovered organic product procurement targets: (C) 3,500 cubic feet of raw biogas, (D) 2,000 cubic feet of pipeline-compatible renewable natural gas, and (E) 0.3 tons of biochar, per ton of dry bio-feedstock. These trackable alternatives to compost and to renewable natural gas in transportation will increase compliance flexibility, market development opportunities, and the economic viability of organics recovery supply chains. They also align with State and local climate goals. For example, use of renewable natural gas in combined heat and power supports the California Clean Energy Jobs Plan goal of install 6500 megawatts of new capacity by 2030. Greater flexibility also supports the work of ABAG Power, a public natural gas procurement program in the San Jose-San Francisco-Oakland metropolitan area. A program of the Association of Bay Area Governments (ABAG), ABAG Power helps local governments procure natural gas for non-transportation, municipal services and is actively working to bring renewable natural gas into its portfolio to help cities achieve goals in their climate action plans. The inclusion of biogas and digestate options increases the feasibility of diverting waste stream to anaerobic digesters at wastewater treatment plants. It facilitates the conversion of biogas to electricity in commercially available fuel cells, thereby avoiding emissions in sensitive areas from on-site combustion in turbines, engines, or flares. The inclusion of digestate and biochar as solid material procurement</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding biochar and digestate to be considered recovered organic waste products, CalRecycle disagrees. Counting digestate or biosolids resulting from in-vessel digestion as a recovered organic waste product, or considering them equivalent to compost or mulch could drastically undercut the effectiveness of the procurement regulations, jeopardizing the state's ability to achieve the</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>options both increases compliance flexibility and helps turn these potential wastes into marketable, nutrient-rich end product fertilizers and lightweight soil amendments. In sum, restricting compliance to only renewable transportation fuel and compost creates potential barriers to regional bioproduct market development and production of renewable bioenergy resources.</p>	<p>organic waste reduction targets. Under the current regulations 100 tons of organic waste could be used to produce 2,100 diesel gallon equivalents of renewable gas used as transportation fuel. If digestate were also considered a recovered organic waste product comparable to compost or mulch, the same facility that produced 2,100 diesel gallon equivalents from recycling that 100 tons organic waste, could also claim production of 100 tons of mulch or 58 tons of compost as recovered organic waste products that jurisdictions could procure in order to meet their procurement targets, regardless of how many tons of digestate actually resulted from the in-vessel digestion of the original organic waste feedstock. Under the worst case, this could cut the effectiveness of the procurement requirements in half. For example, a jurisdiction could procure products valued at 200 tons of organic waste feedstock, when those products were only created from 100 tons of landfill diverted organic waste. Digestate and biosolids, like other organic waste can be a feedstock to create compost or mulch, however digestate and biosolids alone is not equivalent to compost or mulch as defined in the regulations.</p> <p>Further there are technical challenges with considering byproducts of organic waste processing as recovered organic waste products. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. Each recovered organic waste product has a conversion factor that is used to determine the amount of a product that must be procured in order for a jurisdiction to meet the recovered organic waste product procurement target. Such conversion factors cannot uniformly be established for byproducts. Many byproducts are not wholly organic (e.g. overs may not include non-organic material mixed in with organic material which must be further screened out), and the generation of a ton of byproduct would vary dramatically by facility. A compost operation with a very clean uniform feedstock may produce fewer overs per ton of feedstock than a facility with heavily contaminated feedstock. Further, as noted above this would allow a single ton of organic waste feedstock to be credited toward the procurement target twice. Once for the gas produced, and once for the resulting byproduct.</p>
5034	Nudd, G. Bay Area Air Quality Management District	<p>We encourage CalRecycle to consider universal replacement of the term "organic waste" with "organic materials" in these regulations. This wording choice better aligns with the legislative intent of SB 1383 in Section 3, which calls for a reduction in "statewide disposal of organic waste from the 2014 level." We interpret the word "waste" as an artifact of an economic system built around resource extraction, single-use products, and disposal. The regulatory purpose of SB 1383 should be to encourage a system based on life-cycle management and circular economy and to denote materials entering a process of recovery and reuse rather than wastage. For this reason, we encourage a switch to "organic materials" for recovery feedstocks.</p>	<p>Comment noted. CalRecycle agrees that organic waste should be viewed as a resource. The term organic waste is used in the enabling statute of SB 1383, CalRecycle disagrees with departing from the term used in statute.</p>
5035	Nudd, G. Bay Area Air Quality Management District	<p>We encourage a reporting requirement that tracks disposal of any and all materials sent to landfill. The extensive reporting required in these regulations supports diversion accounting. We encourage CalRecycle to assure that this accounting includes materials initially accepted at a diversion operation but</p>	<p>The AB 901 regulations that went into effect March 5, 2019 already capture the material that is sent to landfills. Disposal facilities are required to report to CalRecycle on the tons received for disposal from other reporting entities, including recycling and composting facilities. Residuals generated by a recycling or composting facility or operation on the same site as the disposal</p>

Comment Number	Received From	Question/Comment	Response(s)
		rejected and landfilled thereafter. For example, a composting operation may initially accept a load of organic materials but later reject part or all of it due to contamination, processing incompatibility, or temporal constraints on storage. We encourage CalRecycle to assure that the final regulations create a reporting requirement that can track disposal of any materials that enter a diversion operation and are later sent to landfill, even if such materials are initially accepted or partially processed. Solid waste disposal facilities in the Bay Area require disposal of material rejected partway through the composting process. We encourage statewide regulations to require reporting on any such disposal.	facility will be assigned to the jurisdiction within which the site is located. Recycling and composting facilities report by material type the quantities of material sent to a disposal facility or to a transfer/processor. This may include rejected loads.
5036	Nudd, G. Bay Area Air Quality Management District	We encourage CalRecycle to require landfill operators to document the amount of compost or other recovered organic materials applied at the landfill for slope stabilization. This regulation should require a facility to document their frequency of application, the total area covered, and the depth of material applied in a single application and in a cumulative total. We further suggest that CalRecycle set standards for acceptable frequency, area, and depth and that the regulation prevent the disposal of immature, poor, or incomplete compost in slope stabilization.	A change to the regulatory text is not required. For the purposes of slope stabilization, recovered organic material already has to meet the application standards specified in Section 18983.1 (a)(5). In addition, landfills are required to maintain records of beneficial reuse in accordance with Title 27, Section 20686.
3519	Obermeit, H., City of Berkeley for StopWaste	No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code. Is implementing the fee subject to Prop 218 requirements? If not, why (cite regulatory answer); If so what is the expectation for implementation if voters do not approve the fee?	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.
3520	Obermeit, H., City of Berkeley for StopWaste	(b) A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. A designation shall be made through any one or more of the following: (1) Contracts with haulers or other private entities; or (2) Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health For (2), would our original JPA MOU along with our MRO that member agencies opted-in to be sufficient or would a new MOU be needed detailing the designation?	It is impossible to answer this question without reading the terms of the JPA MOU.
3521	Obermeit, H., City of Berkeley for StopWaste	18982 (6) -- Create separate definition for "multifamily residential dwelling." There are enough differences in requirements between businesses and multifamily that it would be clearer to separate them in the regulations. We support the clarification that multifamily consists of greater than five units.	CalRecycle agrees that the provisions for commercial business sometimes need to differentiate between businesses and multifamily residential dwellings. However, rather than creating a new and separate definition of multifamily residential dwellings, CalRecycle added clarifying language in Section 18984.9.
3522	Obermeit, H., City of Berkeley for StopWaste	Edible Food Definition -- Proposed language... Edible food means unsold or unserved nutritious or wholesome food that is fit for human consumption and/or allowed by FRO's even though the food may not be readily marketable due to..... Most food banks, pantries and soup kitchens are looking for food withat is nutrient rich not empty calories. Allow for some room either in the edible food definition or in the tracking to allow for food to not be donated by generators or be refused by food recovery orgs if it does not meet their dietary standards. Bread dumping is a big issue and unwanted food will cause hardship to FRO's that end up having to dispose of unwanted donations.	SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute does not state that 20% of healthy or nutritious food must be recovered. As a result, SB 1383's regulations do not include requirements that only specific food types be recovered. CalRecycle recognizes however, that a core value of many food recovery organizations and services is to reduce food insecurity in their communities by recovering healthy and nutritious food to help feed people in need, and that some organizations have nutrition standards for the food they are willing to accept. As a result, CalRecycle included language in Section 18990.2 that states, "nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator." Regarding the comment about "bread dumping," the regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or service. If a food recovery organization or service is concerned that bread dumping could occur, then they should include language in their contract or written agreement to protect themselves against bread dumping. In addition, CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model food recovery agreement does include a section to protect food recovery organizations and services from donation dumping and unexpected donations. The model food recovery agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.
3523	Obermeit, H., City of Berkeley for StopWaste	Add definition for recycled mulch: Mulch made from recycled or post-consumer materials and aged and/or composted green material. Definition and specification important to ensure quality products are purchased and continue to be purchased.	CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.

Comment Number	Received From	Question/Comment	Response(s)
			Regarding a definition of mulch, a change to the regulatory text is not necessary. The land application standards and the facility origin limitations referenced in Section 18993.1(f)(4)(A) and (B), respectively, are sufficient to define the material for purposes of procurement.
3524	Obermeit, H., City of Berkeley for StopWaste	"Non-local entity" means...Add county facilities in list. County facilities are considered agents of the state and not subject to local ordinances so it would provide additional clarification to add them to the list.	The term 'special districts,' which is part of the definition of 'non-local entity,' includes county facilities that are considered to be agents of the state and are not subject to local ordinances. Also, to clarify that the definition Section 18982(a)(42) for 'Non-local entity' includes county fairgrounds that are under the authority of the California Department of Food and Agriculture.
3525	Obermeit, H., City of Berkeley for StopWaste	Grocery Store -- Either delete "convenience store" or add a definition. Most convenience stores do not carry the same goods at grocery stores and product carried may not be wanted by FRO's	CalRecycle revised the definition of grocery store in response to this comment. The definition of grocery store was revised to no longer include convenience stores because convenience stores typically do not carry a full line of grocery items and most likely will not have the same amount of edible food available for food recovery as a grocery store would have. For this reason, convenience stores were removed from the definition of "grocery store."
3526	Obermeit, H., City of Berkeley for StopWaste	<p>"Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling. Paper products do not include plastic-coated paper.</p> <p>Since this will also pertain to procurement requirements by jurisdictions, building insulation and panels are typically purchased very differently than other office paper products and would be harder to get an amount spent since they are often part of a building construction or remodel contract.</p> <p>For purposes of compliance with the regulation, plastic-coated paper should not be considered organics because it can not be recycled or composted per Section 30.1.</p>	<p>CalRecycle has revised section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in section 18993.3(c)(2) and therefore agrees with the proposed revision.</p> <p>Section 18993.3(c)(2) requires that paper products and printing and writing paper is eligible to be labeled with an unqualified recyclable label as defined by the Federal Trade Commission. Currently, multi-material products (e.g. plastic-lined paper cups and plastic-coated) are not recyclable and are landfilled. The production of nonrecyclable organic materials compromises the state's ability to achieve the organic waste recycling goals. The purpose of this section is to ensure jurisdictions comply with the procurement requirement by purchasing recyclable items, thereby reducing the introduction of nonrecyclable organics into the marketplace. Jurisdictions can comply with this requirement by focusing their procurement on products that can actually be recycled. This limitation therefore alleviates the need to curtail the definition of paper products as suggested.</p>
3527	Obermeit, H., City of Berkeley for StopWaste	<p>Paper purchase" means all purchases by a jurisdiction of items in the following categories: (A) Paper products except building insulation and panels. (B) Printing and writing papers.</p> <p>Since this will also pertain to procurement requirements by jurisdictions, building insulation and panels are typically purchased very differently than other office paper products and would be harder to get an amount spent since they are often part of a building construction or remodel contract.</p> <p>For purposes of compliance with the regulation, plastic-coated paper should not be considered organics because it can not be recycled or composted per Section 30.1.</p>	<p>CalRecycle has revised section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in section 18993.3(c)(2) and therefore agrees with the proposed revision.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>This is only applicable if the definition of "paper products" isn't changed to exclude building insulation and panels.</p>	<p>Section 18993.3(c)(2) requires that paper products and printing and writing paper is eligible to be labeled with an unqualified recyclable label as defined by the Federal Trade Commission. Currently, multi-material products (e.g. plastic-lined paper cups and plastic-coated) are not recyclable and are landfilled. The production of nonrecyclable organic materials compromises the state's ability to achieve the organic waste recycling goals. The purpose of this section is to ensure jurisdictions comply with the procurement requirement by purchasing recyclable items, thereby reducing the introduction of nonrecyclable organics into the marketplace. Jurisdictions can comply with this requirement by focusing their procurement on products that can actually be recycled. This limitation therefore alleviates the need to curtail the definition of paper products as suggested.</p>
3528	Obermeit, H., City of Berkeley for StopWaste	<p>"Recycled content paper" means paper products and printing and writing paper that consists of at least 30 percent, by fiber weight, postconsumer fiber. 30% PCR is ok for writing paper, but will be hard to meet for other paper products. From Alameda County GSA: I think the copy paper requirement is fine. 30% PCR is adequate as a statewide goal and the tracking, while time consuming, is pretty straightforward, as long as we can use vendor reports to track. I am concerned about the other paper product requirement. Some of the PCR thresholds for the products listed are typically set lower than 30% PCR currently. So it will be more difficult to meet it within the current national markets. It will also add a significant burden of time for tracking.</p>	<p>The language has been changed to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content. Regarding the comment about "significant burden of time for tracking", CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them by early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
3529	Obermeit, H., City of Berkeley for StopWaste	<p>"Renewable transportation fuel" -- Add renewable diesel to this definition. This definition is too narrow and benefits anaerobic digestion, and when used in the procurement targets inadvertently penalizes cities committed to composting, which we know is not the intent. There is very little fuel meeting this definition, and what is produced is used entirely by production facilities to fuel a fraction of its fleet. Even with the projected expansion of AD in the state, the production of RTF will not increase to the point where there will be enough left over for cities not using AD (or their direct service providers) to purchase it. Also, many cities are converting to renewable diesel; a portion of the feedstock for which is organic waste. From Neste, one of the largest renewable diesel producers in the US: For any feedstock that we use for renewable fuel sold in California there is a pathway approved by California Air Resources Board (CARB). These pathways, which are publicly listed at CARB's website, allow us to sell fuel made of UCO, animal fat, fish fat and technical corn oil (a residue from ethanol production) - all of them waste or residue from some other activity. So, these are the feedstocks that we use for your and other customers' fuel in California. How much RTF meeting this definition is available currently? Does this include renewable diesel? What types of fuels does this include?</p>	<p>SB 1383's goals focus on the diversion of organic materials from California landfills. Feedstocks traditionally utilized for the production of renewable diesel, though potentially organic material, are not typically landfilled. Article 1 of the proposed regulations define recovered organic waste products as "products made from California, landfill-diverted recycled organic waste processed in a permitted or otherwise authorized facility." CalRecycle generally recognizes the benefits of various low carbon renewable fuels; however, for the purpose of achieving SB 1383's organic waste diversion goals, such fuels must be produced from feedstocks that would otherwise be landfilled in California to count towards a jurisdiction's procurement target. In response to the amount of renewable transportation fuel (RTF) currently available to meet this definition, the intent of the procurement requirements are to build markets for recovered organic waste products. Therefore, the amount of renewable transportation fuel available today is likely not a reliable indicator of the amount that will be available once the regulations take effect.</p>

Comment Number	Received From	Question/Comment	Response(s)
3530	Obermeit, H., City of Berkeley for StopWaste	<p>Subsequent violation means a violation of this chapter by a jurisdiction or entity that has previously been subject to an enforcement action for a violation of this chapter. For purposes of this chapter, a subsequent violation may only be found when it has occurred within five years of the violation that as already been the subject of an enforcement action.</p> <p>Either delete second sentence or otherwise modify to allow for a jurisdiction that may have a long standing Mandatory Recycling Ordinance and either may not want to "re-set" violation status or may want to "re-set" at a different timeframe. Currently, with our MRO, our fine amounts re-set to the baseline amount after 12 months. Also, by 2022, we will have been enforcing our MRO for almost 10 years and it would be burdensome to have to keep track of a rolling 5 years of enforcement history with specific accounts.</p>	<p>CalRecycle has revised section 18995.4 in response to this comment. The definition for "subsequent violation" has been removed and for a "subsequent violation" has been changed to "subsequent offense" and the timeframe has been revised to one year to align with the provisions of the Government Code. SB 1383 authorized jurisdictions to impose penalties but did not set penalty levels. The penalty requirements default to local penalty requirements in Government Code Sections 53069.4, 25132 and 36900. The timing for first, second and third and subsequent offenses of a violation of the same ordinance is one year. CalRecycle does not have discretion to alter this timing.</p>
3531	Obermeit, H., City of Berkeley for StopWaste	<p>"Tier One commercial edible food generator" means...(B) Grocery store with a total facility size equal to or greater than 7,500 10,000 square feet. To streamline enforcement and reporting, this definition should allow for regional variation in how these types of generators are categorized To align with Alameda County Environmental Health Dept. (and possibly other County EH Depts?) food permit types for Food Markets: under 3,000 sq ft, 3,000 sq ft to 10,000 sq ft, over 10,000 sq ft.</p>	<p>CalRecycle revised the threshold for grocery stores in response to this comment. The threshold for grocery stores was revised from 7,500 square feet to 10,000 square feet. This change was made in an effort to have the threshold align with environmental health inspections of grocery stores, so that these generators can be more easily identified by the jurisdiction.</p>
3532	Obermeit, H., City of Berkeley for StopWaste	<p>Tier two commercial edible food generator" means...(B) Hotel with an on-site food facility...(C) Health facility with an on-site food facility...(H) A Local Education Agency facility with an on-site food facility. Define "on-site food facility" separately. Provide more clarity on what an on-site food facility means or thresholds for it (does it include only food storage or does it include heating up of food, etc.). Would a hotel that only sold packaged food mean on-site food facility? What about a public school that just got food from a district facility? Food facilities may be onsite but not active or used. Many schools/LEA's have kitchens that are non-functioning.</p>	<p>CalRecycle would like to clarify that a reference to the term 'on-site food facility' is only used in the thresholds for the following tier two commercial edible food generators: local education agencies, hotels, and health facilities. The regulations specify that 'food facility' has the same meaning as in Section 113789 of the California Health and Safety Code. To clarify, if something meets the definition specified in Section 113789 of the California Health and Safety Code and is also permitted as a food facility by the local health department, then it is a food facility. Section 113789 of the California Health and Safety Code is already well established through use in the California Retail Food Code and CalRecycle has determined it to be appropriate for use in this rulemaking to avoid duplication, conflict, or confusion.</p>
3533	Obermeit, H., City of Berkeley for StopWaste	<p>A jurisdiction may comply with the requirements of this article by implementing a two-container organic waste collection service providing a green container and a blue container to each generator in the following manner:...(2) The blue gray container shall be for the collection of all nonorganic waste. Blue container being recycling in two-container systems, and garbage in three-container systems is confusing as people move across jurisdictions. This confusion could exacerbate contamination in recycling in three-container systems.</p>	<p>The regulations already allow for blue container eligible recyclables into either the green or gray containers or contained organics into the blue container for the blue and gray container option. CalRecycle agrees 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. CalRecycle mad a corresponding change to the regulation to the color requirements for two container collection services.</p>
3534	Obermeit, H., City of Berkeley for StopWaste	<p>Unsegregated Single-Container Collection Services (a) If a jurisdiction had a mixed solid waste collection system in place on or before September 19, 2016, that A-jurisdiction may comply with the requirements of this article by providing a single grey container... We are concerned about the perverse incentives created by the regulation for cities to opt for a single container collection system. We urge CalRecycle to create a</p>	<p>CalRecycle considered this concept in the initial draft regulatory text but rather than setting an earlier deadline instead established performance metrics for high-diversion facilities. Further the regulations cannot take effect prior to 2022, establishing an earlier cutoff would be in conflict with the intent of the statute.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>performance-based pathway to compliance for new and existing SSO programs. The burden on jurisdictions using SSO collection is significantly higher almost all sections regs: enforcement, reporting, education, labeling, penalties. We acknowledge that there are few high diversion facilities meeting the 50% target and none meeting the 75% target, but for jurisdictions with no current organics program, MSW processing is the cheaper and easier option. This could lead to more MSW compost entering the market. Currently there is little market for this compost due to its poor quality. However, by requiring cities to buy compost, especially in the excessive quantities proposed in the current draft, the regulations significantly weaken the ability of the market to influence quality.</p> <p>We know that the recovery rate from MSW processing is lower than source-separated organics and it results in a product that does not meet existing regulated contamination limits, which also has significant concentrations of unregulated contaminants, including inerts under 4mm, dioxins, heavy metals (Brinton, 2000). The effects of microplastic on soil ecosystems is an emerging field, and early research indicates the effects are similar to those in aquatic ecosystems (Weithmann et al., 2018). If MSW processing is recovering less than 75% of organics, it puts the state at risk of not meeting the diversion goal of SB 1383. Note: Brinton, W. (2000) Compost Quality Standards & Guidelines: An International View. Report for New York State Association of Recyclers by Woods End Research Laboratory http://solvita.com/pdf-files/nysar-ne.pdf Weithmann et al., Sci. Adv. 2018;4: eaap8060</p>	
3535	Obermeit, H., City of Berkeley for StopWaste	<p>A jurisdiction shall conduct a route review for prohibited container contaminants on randomly selected containers in a manner that results in all commercial collection routes being reviewed quarterly. Feedstock from SFR typically has contamination 1-2% according to composters serving Alameda County. A more efficient and effective approach to minimizing contamination would be to review routes only if contamination is reported to the jurisdiction by the facility. This will allow resources to be spent reviewing commercial accounts, which are the source of most contaminants. Also, looking in residential containers could lead to violation of privacy challenges to cities.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3536	Obermeit, H., City of Berkeley for StopWaste	<p>Container Contamination Minimization</p> <p>No change to language, but enforcement must be realistic and acknowledge that contamination will sneak in. Jurisdictions should not be penalized for small amounts of contamination if following other practices.</p> <p>We support a regulation that strives for zero contamination because it is simplest to verify, and works toward the goal of creating quality compost. However, during implementation CalRecycle must allow for enforcement practices that allow flexibility for very minimal contaminants that may be relatively easily sorted out in pre-processing. Currently, in our MRO implementation, we don't give a contamination violation if it appears minimal such as one or two items. Jurisdictions should not be penalized because they did not fine generators for minimal contamination or illegally dumped contamination.</p>	Comment noted, the comment does not recommend a regulatory change.
3537	Obermeit, H., City of Berkeley for StopWaste	<p>Container Contamination Minimization</p> <p>If a jurisdiction's designee observes visible prohibited container contaminants in a container, the designee shall inform the jurisdiction in writing, each month, with the address of the generator and the date the contaminated container was observed, and if available, any photographic documentation, and what action was taken.</p> <p>We provide monthly reports (in a spreadsheet) to our member jurisdictions of the accounts found in violation and sent an MRO enforcement letter, but we do not provide photos in those monthly spreadsheets. It would be overly burdensome to have to transfer photo files monthly. Or, only make it so you transfer photos if the generator has contaminants on more than three occasions to align with (b)(3).</p>	The requirement does not specify that photographs be transferred to the jurisdiction, only that the designee maintain a record of photographic documentation. Designees are not required to take photographs.
3538	Obermeit, H., City of Berkeley for StopWaste	<p>If a jurisdiction is informed by a solid waste facility operator...that the waste collected by one of its hauler container prohibited container contaminants while the hauler was servicing the jurisdiction's generators, ...</p> <p>No change to language.</p> <p>Allow flexibility during enforcement for very minimal contaminants to acknowledge that all contaminants are not equal (10 plastic bottles vs 2 glass bottle vs one engine block vs one milk carton). See rationale for pg 14 line 52.</p>	CalRecycle provided enforcement flexibility in the regulations, including relieving jurisdictions of having to issue penalties on generators for container contaminants.
3539	Obermeit, H., City of Berkeley for StopWaste	<p>(3) Copies of or information regarding all written notices, violations, education and enforcement actions issued or given by the jurisdiction, or its designee, to the generator with prohibited container contaminants. (A) If direct contact other than written contact is made in lieu of written notification, the jurisdiction shall include a record of the type of contact provided, and the date contact was made in the implementation record.</p> <p>If jurisdiction has a designee, then allow them to provide reports/data to jurisdiction about what was done, but not necessarily copies of all notices, education (may be</p>	CalRecycle declines the suggested change as it has determined that actual copies are necessary to ensure an adequate compliance record.

Comment Number	Received From	Question/Comment	Response(s)
		multiple times of calling), to reduce burden on transferring copies of everything. Other items in the section were changed from "copies" to "documentation", but not this line.	
3540	Obermeit, H., City of Berkeley for StopWaste	(a) A jurisdiction shall provide collection containers for collection service to generators that comply with the container color requirements specified in this article. Current language could be interpreted, particularly since "collection containers" is not defined, that the jurisdiction also has to provide indoor bins to businesses. That would be of enormous cost to jurisdictions.	CalRecycle revised Section 18984.7(a) in response to this comment to clarify that jurisdictions have to provide containers for the collection service that the jurisdiction implements for organic waste generators, not the indoor bins of businesses.
3541	Obermeit, H., City of Berkeley for StopWaste	Section 18984.7 -- Modify so that language doesn't make it seem like once one container is at end of useful life, it needs to be replaced by correct color requirements. Would not want a mix-match of containers in old colors and containers in new correct colors because it would be confusing. Allow for waiting for the majority of containers in a jurisdiction to be at the end of useful life and switch out all at once.	Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036.
3542	Obermeit, H., City of Berkeley for StopWaste	(a) Commencing January 1, 2022, a jurisdiction shall place and maintain a label on each new container or lid provided to generators consistent with the applicable container collection requirements and limitations of this article specifying what materials are allowed to be placed in each container. Comment -- "and maintain" could be strictly interpreted to mean the jurisdiction has make sure that there's always an appropriate label on the container which would be very difficult to do.	CalRecycle revised Section 18984.8(a) in response to this comment to remove "maintain". Since new containers will be properly colored, this change will provide some guidance to generators. In addition, CalRecycle clarified in FSOR that jurisdictions may replace labels if needed or if requested, but CalRecycle does not expect jurisdictions to inspect all containers to ensure that labels are maintained.
3543	Obermeit, H., City of Berkeley for StopWaste	(b) Generators that are commercial businesses shall also: (1) Provide containers for the collection of organics waste and nonorganic recyclables in all areas where disposal containers are provided for customers. The containers provided by the business shall conform with the containers provided through the organic waste recovery service provided in their jurisdiction. If all three streams aren't generated in certain areas, such as bathrooms, then businesses shouldn't have to put all three containers. Plus, some customer areas could be very likely to have a lot of contamination by customers even if good labeling/signage and we should allow flexibility for the business to make that judgement. Also, would be very difficult/onerous for a jurisdiction to inspect/enforce that business generators are providing the correct containers in all disposal areas. Currently in our MRO implementation, if the hauler-serviced bins are in outdoor publically accessible locations, our inspectors don't go inside the business (would take a lot more time!).	For situations where the business' total solid was collection service is two cubic yards or more per week, but the business is not generating any of the materials (either green or blue or both) that would be collected in any one type of container; the regulations already state that generators do not have to have a container type if they do not generate the materials. CalRecycle revised Section 18984.11to clarify the allowance of de-minimis waivers. As a part of the de-minimis waiver, a jurisdiction can waive business from its obligation to comply with "some or all of the organic waste generator requirements..." This includes the obligation to provide internal organic waste recycling containers adjacent to disposal containers. Since they are not generating the material at all, the business should not have to subscribe to the collection service for that type of container. It would not be practicable to require a business to subscribe to collection service for a type of collection container when it does not generate any material that would be deposited into the container. Jurisdictions are required to conduct compliance reviews to ensure that generators have service and are in general compliance with the regulations, however the regulations do not require that jurisdictions to inspect the internal containers of a business.
3544	Obermeit, H., City of Berkeley for StopWaste	(b) Generators that are commercial businesses that are not multifamily residential dwellings shall also:...(2) Prohibit their employees from placing organic waste in a container not designated to receive organic waste as set forth in 30.1(a)(5) and 30.2(a)(5) of this chapter. Commercial business definition currently includes multifamily residential dwelling with 5 or more units. Multifamily property	CalRecycle agrees that the provisions for commercial business sometimes need to differentiate between businesses and multifamily residential dwellings. However, rather than creating a new and separate definition of multifamily residential dwellings, CalRecycle added clarifying language in Section 18984.9.

Comment Number	Received From	Question/Comment	Response(s)
		owners/managers can not control the sorting behavior of their residential tenants. Our MRO gives violations for improper sorting for commercial accounts, but not multifamily accounts. Also, multifamily accounts are much harder to inspect due to inability to gain access to many properties with locked gates. (We found that about half the multifamily accounts we tried to inspect, we couldn't get in to inspect.) Jurisdictions should not be penalized when circumstances beyond their control keep them from effectively enforcing upon the generator.	
3545	Obermeit, H., City of Berkeley for StopWaste	(1) Property owners shall provide information to new tenants before or within 14 days of upon occupation of the premises. The actual date of occupation of the tenant can be hard to determine sometimes (may be moving in over a week or two). Allow more flexibility to provide before move-in or within 14 days. Our MRO specifies within 14 days.	CalRecycle revised Section 18984.10(b)(1) in response to this comment. This change is necessary to specify the time frame for providing information, recognizing that the actual date of occupancy can vary.
3546	Obermeit, H., City of Berkeley for StopWaste	(1) De Minimis Waivers...(B) A jurisdiction shall annually verify at least every four years that the commercial businesses' organic waste generation meets the waiver thresholds set forth in this subdivision. Too onerous and not an efficient use of resources to have to inspect de Minimis waiver accounts every year. If we are only getting to about 20% of the accounts inspected every year, we shouldn't have to waste time to verify the threshold on these smallest generators	CalRecycle has revised the verification period to five years in response to this comment. Thank you for the support comment. This comment is in support of the current language.
3547	Obermeit, H., City of Berkeley for StopWaste	Emergency Circumstances...(1) If the facility processing a jurisdiction's organic waste notifies the jurisdiction that operational restrictions have been imposed upon it by a regulatory agency....for up to 180 90 days from the date of the restriction or failure What if it takes longer than 90 days to fix the problems?	CalRecycle does not concur with changing the language to 'shall' as there may be instances where a jurisdiction wants the material to be taken to another facility for recycling rather than disposing of the material. It is unclear why CalRecycle would require the disposal of organic waste. If a processing issue extends beyond 90-days a jurisdiction could seek additional time under a corrective action plan for extenuating circumstances. CalRecycle does not concur with the addition of a new waiver because planned and routine maintenance should already be accounted for and the material should not be disposed.
3548	Obermeit, H., City of Berkeley for StopWaste	Recordkeeping Requirements for Waivers and Exemptions...(2) A copy of all De Minimus Waivers, including the location, date issued, and name of generators or account holders . (3)...name of account holders generators or account holders . (4)...name of generators or account holders . If the account is multi-tenant/shared, we may not know all the generators, but we would know the name of the account holder.	CalRecycle declines the suggested changes. By necessity, jurisdictions will know the name of the generator(s) to whom waivers or exemptions are issued or they can't actually issue them.
3549	Obermeit, H., City of Berkeley for StopWaste	(a) Prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide the following to organic waste generators that are provided a three-container or two container organic waste collection service: Items 3, 4, 5, and 6 are also applicable to generators with single-container organic waste collection service. Single-container systems should also be educating generators.	CalRecycle revised Section 18985.1(d) to provide consistency in required education and outreach requirements for the three different container service options.
3550	Obermeit, H., City of Berkeley for StopWaste	...annually thereafter, a jurisdiction shall provide the following to organic waste generators.. (5) Information related to the public health and safety and environmental impacts associated with the disposal of organic waste.	This provision is necessary as written so that generators understand the purpose behind the law, how to recycle, and the impacts of disposal. This information does not have to be included on every educational piece, but rather must be provided once per year.

Comment Number	Received From	Question/Comment	Response(s)
		Requirements for what education and outreach has to include is too much. We've found that too much information on educational pieces can be overwhelming and less effective at behavior change. Specifically, items 3 and 5 should be optional for source-separated organics services and not required to be on the education piece.	In addition, CalRecycle added Article 17 to provide that a jurisdiction will be waived from specified articles and sections in the regulations if they can meet performance requirements specified in this new article.
3551	Obermeit, H., City of Berkeley for StopWaste	(b) Prior to February 1, 2022, and annually thereafter, the the extent that a jurisdiction has information about self-haulers, a jurisdiction shall provide to self-haulers information regarding the requirements of Section 70.3 of this chapter. If a jurisdiction has a transfer station or other facility in their jurisdiction, they can provide self-haulers that come with information, but otherwise they may not have knowledge of who is selfhauling especially if they are cash customers	CalRecycle deleted requirements that jurisdictions specifically identify and educate self-haulers in response to this comment. Jurisdictions can meet the requirement to educate self-haulers by including information oneself-hauling in their general education and outreach material provided to all generators. CalRecycle deleted language requiring solid waste facility operators to educate self-haulers as it would be overly burdensome and is outside the scope of what EAs monitor at solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction. CalRecycle revised Section 18988.3 to clarify that self-haulers should not be held to more stringent standards than contracted haulers and should be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.
3552	Obermeit, H., City of Berkeley for StopWaste	(f) If more than five percent of a jurisdiction's generators are defined as "Limited English Speaking Households,"...the jurisdiction shall provide the information required by this section in a language or languages and/or graphics that will assure the information is understood by those generators. Graphics can transcend languages.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3553	Obermeit, H., City of Berkeley for StopWaste	A jurisdiction shall develop a list of food recovery organizations and food recovery services operating within the jurisdiction, and maintain the list on the jurisdiction's website Comment: "maintain" is not descriptive enough. There are lots of food pantries, banks, churches, and shelters that operate differently than larger food banks. These alternative operators are usually 100% volunteer-driven and very informal. We foresee challenges keeping lists up to date. For example, one local pantry just had a fire which put them out of commission for 6 weeks. Another lost their volunteer truck driver so they were unable to pick up donated food for several months. Update on an annual schedule? Can a jurisdiction comply by providing a link to other websites or regional search results which may mouse a list of orgs in a region such as ACCFB, Feeding America, StopWaste's Recycle Where?	To clarify, the requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and services operating within the jurisdiction, just that a list be created, maintained on the jurisdiction's website, and updated annually. To the commenter's point, in a previous draft of the regulations the requirements did not specify how often the list should be updated. Recognizing the validity of this comment and that food recovery organizations and services can go in and out of operation from year to year, CalRecycle added language to Section 18985.2 to specify that the list shall be updated annually. CalRecycle would also like to clarify that it is at the discretion of the jurisdiction to determine the method that will be used for maintaining the list (e.g. updating/keeping the list current and relevant). How each jurisdiction's list is maintained will differ from jurisdiction to jurisdiction. For this reason, the regulations do not specify the procedures outlining how each list should be maintained. Regarding the question asking if jurisdictions can comply with this requirement by providing a link to other websites, the answer is NO. The regulatory text specifies that jurisdictions must "develop" a list. Providing links to other websites will not be sufficient to comply with this requirement, as that would not meet all the requirements specified in Section 18985.2 (a)(1)(A)-(D) The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with pursuant to Section 18991.3 (b), and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping feed people in need. Developing a list that includes food recovery organizations and services that have sufficient capacity and a proven track record of safely and efficiently recovering food for human

Comment Number	Received From	Question/Comment	Response(s)
			consumption will help commercial edible food generators find food recovery organizations and services that are capable of safely handling and distributing edible food on a regular basis.
3554	Obermeit, H., City of Berkeley for StopWaste	A jurisdiction shall develop a list of food recovery organizations and food recovery services operating within the jurisdiction that accept food from Tier 1 and Tier 2 generators, and maintain the list on the jurisdiction's website. Does the list need to include all food recovery organizations or only those who accept food from Tier 1 and Tier 2 generators? For the purposes of the regulations, a jurisdiction should not be required to list all smaller orgs that are not affected by and whose collections not directly support SB1383 regs. Similarly, some FRO's operate out of churches. Are organizations not primarily engaged with food recovery (e.g., libraries, rec centers, churches) required to be listed since their primary function is not "in the collection or receipt of food"?	A change to the regulatory text was not necessary for the following reasons. The requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and services operating within the jurisdiction, just that "a list" be developed and maintained on the jurisdiction's website. It is at the jurisdiction's discretion to determine the food recovery organizations and services that they feel should be included on the list. Please note that the list is intended to serve as a tool to help generators find appropriate food recovery organizations and services to have a contract or written agreement with for food recovery, and thereby help ensure that edible food in the jurisdiction is not disposed in landfills, but rather put to its highest and best use of helping to feed people in need. Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing large amounts of recovered edible food on a regular basis.
3555	Obermeit, H., City of Berkeley for StopWaste	(E) Hours of operation Concerned that a website is not necessarily helpful. A directory of orgs with hours of operation may reveal to generators where they can "donate/dump" food during closed hours. Big issue with Charity Thrift stores.	CalRecycle removed "hours of operation" from Section 18985.2 in response to this comment and several other comments raising the same concern. The commenter is concerned that including "hours of operation" could lead to commercial edible food generators dropping off food at a food recovery organization without having permission to do so. This change was necessary to help protect food recovery organizations from receiving food that they were not expecting to receive.
3556	Obermeit, H., City of Berkeley for StopWaste	1) Provide Tier one and Tier two that generate edible food generators, once their requirements are in effect , with the following information:... If a jurisdiction can determine who the Tier one and Tier two edible food generators are, they should only be required to provide the information to those parties that have the requirements, not all businesses. Also, commercial business definition currently includes multifamily properties.	CalRecycle revised Section 18985.2 in response to this comment. The regulatory text was changed to: (b) At least annually a jurisdiction shall: (1) Provide commercial edible food generators with the following information: This change was necessary because as the commenter pointed out, it is not necessary for businesses that are not commercial edible food generators to receive education about the commercial edible food generator requirements of SB 1383. Regarding the commenter's suggested language, "once their requirements are in effect," a text change was not necessary. A text change is not necessary for the following reasons. The regulations are structured so that tier two generators have an extra two years to prepare for compliance. They have been given an additional two years to prepare because many of these generators do not have existing food donation practices in place, and many tier two generators will have hot prepared foods to donate, which can be more challenging to recover than other types of non-prepared foods. These generators need to be educated early so that they have ample time to prepare for compliance. Receiving education early is critical for helping ensure a higher rate of compliance among tier two commercial edible food generators, and therefore critical for helping California achieve its 20% edible food recovery goal. For these reasons, tier two commercial edible food generators must receive education materials at the same time as the tier one commercial edible food generators.

Comment Number	Received From	Question/Comment	Response(s)
3557	Obermeit, H., City of Berkeley for StopWaste	<p>18985.2 (D) Information on food items accepted/needed by Food Recovery Organizations and how to package. Missing requirement to include information on food items accepted/needed by Food Recovery Organizations and how to package. Addresses issue of donation dumping. Where food recovery organizations participate in grocery rescue or other regularly scheduled donations of food, food banks say that they do not want to turn a donation away, because the desirable food comes with unwanted food.</p>	<p>Regarding the commenter’s suggested language, “and how to package,” a text change was not necessary. A text change was not necessary because this is information that the food recovery organization or service can include in their contract or written agreement with the commercial edible food generator. If a jurisdiction feels this information is critical and would like to include it with their list, then they may do so. As stated in Article 9, Section 18990.1 (a), nothing in this chapter is intended to limit the authority of a jurisdiction to adopt standards that are more stringent than the requirements of this chapter, except as provided in subdivision (b) of section 18990.1.</p> <p>Regarding the comment about donation dumping, CalRecycle recognizes that donation dumping occurs. The regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or a food recovery service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383’s regulations prohibiting a food recovery organization or service from terminating their relationship with that particular generator.</p> <p>In addition, CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, commercial edible food generators, and jurisdictions. This model agreement does include language to protect food recovery organizations and services from donation dumping and unexpected donations. The model food recovery agreement is a template and is intended to be customized based on the needs of food recovery groups and commercial edible food generators.</p>
3558	Obermeit, H., City of Berkeley for StopWaste	<p>18985.2 Accepted Food Types for donation No information on acceptable food types for donation. Addresses issue of donation dumping.</p>	<p>CalRecycle added a requirement to Section 18985.2 in response to this comment and other comments that raised a similar concern. The new language requires the following to also be included with the list of food recovery organizations and food recovery services that the jurisdiction develops and maintains - an indication of the types of food the food recovery service or organization can accept for food recovery.</p>
3559	Obermeit, H., City of Berkeley for StopWaste	<p>18985.3 (2) The date, and to whom the information or direct contact was disseminated. Replace with a requirement to do direct outreach or at least one mailing, outreach to covered businesses per year and track where and how the information was shared with generators. i.e. mailing, bill insert, through local chamber, hauler accounts, etc. Tracking date and contact info for disseminating information too onerous on counties or jurisdictions. "To whom" could also be interpreted to mean that we have to keep exact names of who the information was distributed to, when it seems the intention is a jurisdiction more broadly keeps records of how they disseminated the information to businesses. If the education/outreach was social media, how would a jurisdiction really be able to keep track of who the information was disseminated to. Rmove "To Whom" and "date" requirement, too onerous to track.</p>	<p>The language was amended to clarify that if a jurisdiction provides mass distribution through mailing the jurisdiction is only required to keep a copy of the information and a list of accounts receiving the information. The jurisdiction is not required to keep a copy of each individual piece of information. It is necessary for jurisdictions to keep a record of recipients in order to demonstrate compliance.</p>
3560	Obermeit, H., City of Berkeley for StopWaste	<p>Non-Local Entity Requirements 1) The following shall not be collected in the green or blue container:.. Change to</p>	<p>Thank you for the comment. CalRecycle amended the applicable sections for consistency.</p>

Comment Number	Received From	Question/Comment	Response(s)
		be consistent with changes made in Section 18984.1: Three-container Organic Waste Collection Services.	
3561	Obermeit, H., City of Berkeley for StopWaste	Self-haulers of Organic Waste -- Question: Are small businesses allowed to self-haul their organics or recyclables to their home to save money on separate business collection service? If so, would they still need to record and report weights? For MRO implementation, we allow businesses to complete a Certification of Recycling Service Form that indicates they are back-hauling their recyclables home and we don't require amounts to be	Nothing in the regulation prohibits a business owner from self-hauling their organic waste. A change in language is not needed. The regulations require self-haulers to keep a record but do not require self-haulers to report as it would be unnecessarily burdensome to require self-haulers to report. Language was ultimately changed to remove the annual reporting to jurisdictions for all self-haulers.
3562	Obermeit, H., City of Berkeley for StopWaste	CalGreen Building Codes -- Would incorporating it into plan review/permit requirements be sufficient?	There are various forms of enforceable mechanisms. Requiring compliance with the applicable aspects of CalGreen or MWELo prior to issuing a permit for construction or demolition, is a potential type of enforceable mechanism. Thus, incorporating in the plan review/permit requirements be acceptable.
3563	Obermeit, H., City of Berkeley for StopWaste	Organic Waste Recovery Standards and Policies Organic Waste Recycling Previous language "Recycling" that was struck out, clears up confusion with food recovery to feed people through donation and Food Recycling to feed compost.	A change to the regulatory text is not necessary. CalRecycle uses the term "recovery" throughout the regulations, not only to distinguish edible food.
3564	Obermeit, H., City of Berkeley for StopWaste	Add language citing SB 557 School Food Share and Donation legislation. Previous language "Recycling" that was struck out, clears up confusion with food recovery to feed people through donation and Food Recycling to feed compost. Reinforces intention of legislation to allow for establishing food share tables and school food donation.	Comment noted. A change to the regulatory text is not necessary, though CalRecycle will cite the legislation in the Final Statement of Reasons.
3565	Obermeit, H., City of Berkeley for StopWaste	Record keeping requirements for generators should mention tracking "chain of custody" including transportation time and anything related to safe food handling, keeping food that is hot or cold in the Safe Food Temperature Zone (STZ) Reinforces safe food handling practices. Will standardized templates for tracking and reporting be provided for generators and jurisdictions? Or a system or portal for reporting similar to green halo for C&D reporting? What if a generator has edible food and can't find a FRO that will take it?	A change to the regulatory text was not necessary because adding the proposed recordkeeping requirement would be overly burdensome for commercial edible food generators and could also increase their recordkeeping costs significantly. In addition, the proposed recordkeeping requirements are to reinforce safe food handling practices. While CalRecycle recognizes that safe food handling is paramount, the California Health and Safety Code specifies food safety and safe food handling requirements. Not SB 1383. Regarding the comment about standardized templates for tracking and reporting, CalRecycle intends on providing tools and resources to assist with SB 1383 compliance prior to 2022. Regarding the comment about what could potentially occur if a commercial edible food generator cannot find a food recovery organization or a food recovery service to establish a contract or written agreement with, CalRecycle provided information in the FSOR to clarify that the expectation for commercial edible food generators is that they contract with food recovery organizations and food recovery services that are willing and capable of recovering their edible food. If a commercial edible food generator only has "unhealthy" foods available, then the commercial edible food generator must contract with an organization or 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 generators grocery rescue, but will not accept the generator's baked goods, then the generator must contract with an additional food recovery organization or service willing to accept the generator's baked goods.

Comment Number	Received From	Question/Comment	Response(s)
			<p>Commercial edible food generators are not exempt from compliance if they only have “unhealthy” foods available for donation. Note that SB 1383’s statute requires that 20% of currently disposed edible food be recovered for human consumption by 2025. The statute does not specify that only “healthy foods” be recovered.</p>
3566	Obermeit, H., City of Berkeley for StopWaste	<p>(2) A copy of contracts, written agreements or other documents between the edible food generator and a food recovery service or organization. Requirement is too onerous for commercial generators to track, especially collecting food recovery contracts, because many don’t have contracts. Nationally, Feeding America holds contracts with donors for grocery rescue. Would it be possible to have a county-wide blanket agreement that covers generators, something that outlines I agree to do the following things....</p>	<p>CalRecycle conducted significant outreach with stakeholders during the rulemaking process to ensure that the recordkeeping requirements are feasible. In addition, CalRecycle worked with many food recovery organizations and services throughout the state to learn more about the information they track, and to learn about the information they provide to their donors. The majority of the organizations and services that CalRecycle engaged with provide their donors with some kind of receipt of donation. By providing a receipt of donation, donors are able to track the amount of food they have donated over time and can claim their federal enhanced tax deduction. Without the recordkeeping requirements for commercial edible food generators, jurisdictions will not be able to verify if a commercial edible food generator is complying with SB 1383’s edible food recovery regulations. The recordkeeping requirements are a critical enforcement mechanism. For that reason, they were not removed from the regulatory text. CalRecycle does intend on making SB 1383 recordkeeping tools available to commercial edible food generators to assist them with compliance prior to 2022.</p> <p>Another commenter noted that the requirement for commercial edible food generators to maintain a record of their contract(s) or written agreement(s) for food recovery organizations and services is too onerous to track, because many do not have contracts. In the same comment, the commenter noted that Feeding America holds contracts with donors for grocery rescue, and asked if it would be possible to have a county-wide blanket agreement that covers generators. To clarify, commercial edible food generators are required to establish a contract or written agreement. If a contract has been established, then maintaining a copy of the contract at the commercial edible food generator-site should not be a challenge. Regarding the commenter’s question about the county-wide blanket agreement, CalRecycle cannot provide a final answer without more clarification of the “county-wide blanket agreement” that the commenter is referring to. CalRecycle would like to clarify that every tier one and tier two commercial edible food generator must have a contract or written agreement in place and maintain a record of its contract or written agreement. Requiring commercial edible food generators to maintain these records is critical to help jurisdictions verify compliance.</p> <p>In addition, requiring a contract or written agreement with supporting documentation of the contract or written agreement is critical to ensure that edible food is recovered in a safe, professional, and reliable manner. Contracts and written agreements add a layer of food safety, professionalism, and reliability into food recovery and can also serve as a mechanism to help protect food recovery organizations and services from donation dumping. CalRecycle would also like to note that CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators.</p>
3567	Obermeit, H., City of Berkeley for StopWaste	<p>"Quantity of food collected or transported to a FRS or FRO shall be measured in pounds recovered per month." Needs clarification.</p>	<p>To clarify, Section 18991.4(D) requires commercial edible food generators to maintain a record of the quantity of food collected or self-hauled to a food recovery organization or a food recovery service. The regulations also state that the quantity shall be measured in pounds recovered per</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Since the current language says "recovered" and not collected or transported does that mean there needs to be a subtraction of what food doesn't get used by the FRO that's donated? How can we use the metrics to monitor donation dumping without being overly burdensome on FRO's that have to track? What happens if there are discrepancies in the numbers reported between generators and FRO's?</p>	<p>month. To clarify, commercial edible food generators are only required to track the pounds of food that were collected or self-hauled. They are not required to track the amount of food that was recovered and consumed by people as this would be very difficult and expensive for generators to track.</p> <p>During the informal rulemaking process the California Association of Food Banks also expressed concerns that tracking residual food waste would be very difficult and expensive for food recovery organizations and food recovery services to track. If it is already difficult for food recovery organizations and services to track the amount of recovered food that is actually consumed by people, then it is unreasonable to think that commercial edible food generators would be able to acquire this data from food recovery organizations and services.</p> <p>Regarding the question about discrepancies in the numbers reported, a commercial edible food generator could face enforcement action if it is determined that they have falsified their records. Please note however, that recordkeeping and reporting are different. Commercial edible food generators are not required to report any information, but they are required to maintain records. CalRecycle would also like to clarify that there is no requirement in the regulations to track donation dumping. However, the regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383's regulations prohibiting a food recovery organization or food recovery service from terminating their relationship with that particular generator.</p> <p>CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and services from donation dumping and unexpected donations. The model food recovery agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.</p>
3568	Obermeit, H., City of Berkeley for StopWaste	<p>Require feedback loop in form of receipt or report to generators on lbs. and food types donated to incentivize the prevention of wasted food.</p> <p>To help edible food generators better manage inventory, reducing donation in favor of prevention. We have made this comment on past drafts of concepts and regulations. If the goal of this legislation is to reduce wasted organics and concomitant methane emissions, preventing food waste upstream is more effective. Food donation is not the most efficient way to feed hungry people or to reduce wasted food.</p>	<p>A change to the regulatory text was not necessary because commercial edible food generators are already required to maintain records of this information. CalRecycle would also like to clarify that the edible food recovery goal established by SB 1383 is to recover 20% of currently disposed edible food for human consumption by 2025. This is a food recovery goal, not a food waste prevention or source reduction of food waste goal.</p>
3569	Obermeit, H., City of Berkeley for StopWaste	<p>(B) Using a jurisdiction-specific waste characterization study for the tons disposed by the county or a jurisdiction within the county if the study is more recent than the Department's most recent waste characterization study. A jurisdictionspecific study shall include a statistically significant sampling of solid waste disposed of by the jurisdiction or within the county. When we've done previous waste</p>	<p>Thank you for the comment. The language was revised to address this situation.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>characterization studies for the county with statistically significant sampling at the jurisdictional level (1995, 2000, 2008), we found that the differences between our member jurisdictions were not statistically different. When planning for our recent 2017/2018 waste characterization study, it would have been hundreds of thousands of dollars more to conduct the study with statistically significant sampling at the jurisdictional level, so it was determined that it wasn't worth the extra significant cost as inter-jurisdictional differences were not statistically significant, so we conducted the study at a statistically significant level for the whole county.</p>	
3570	Obermeit, H., City of Berkeley for StopWaste	<p>Organic Waste Recycling Capacity Planning -- e) For the purposes of this section, organic waste shall only include the following type of organic waste: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and biosolids. Does the current AB 876 include paper products, printing and writing paper, digestate and biosolids in its organic waste definition?</p>	The identified materials are not included in the requirements of AB 876.
3571	Obermeit, H., City of Berkeley for StopWaste	18992.2 -- Will CalRecycle be providing methodology for calculating estimates of amount of edible food, capacity of generators to recover 20%, etc.?	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
3572	Obermeit, H., City of Berkeley for StopWaste	18992.2 -- This section does not address characterizing surplus food. In order to identify existing and expanded capacity at food recovery organizations, there must be some effort to characterize the type of surplus being generated by commercial food operators.	Although the regulations do not require the types of food to be measured, CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
3573	Obermeit, H., City of Berkeley for StopWaste	February August 1, 2022 counties shall report... Why does this report not align with EAR schedule? Aligning with existing reporting will be less onerous for cities, resulting in better reports.	Annual jurisdiction reports are due August 1 of each year. It is unclear from the comment how the dates are inconsistent.
3574	Obermeit, H., City of Berkeley for StopWaste	<p>Recovered Organic Waste Product Procurement Target (a) Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall annually procure a quantity... (i) A jurisdiction shall identify additional procurement opportunities within the jurisdictions' departments and divisions for expanding the use of recovered organic waste products replacing comparable virgin products with recovered organic waste products. Commencing January 1, 2022, jurisdictions shall:</p>	Regarding MWELo, the proposed regulations have been changed to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELo. CalRecycle generally agrees that training for the use of compost is valuable. Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1) require compliance with the following provisions of the California Model Water Efficient Landscape Ordinance: 492.5 Soil Management Report, 492.6(a)(3) Soil Preparation, Mulch and Amendments, and 492.9(a)(6) Certificate of Completion, soil analysis report and documentation verifying implementation.</p> <p>(2) provide a specification for compost and mulch and other documents, such as standard details, lists of local providers, and educational materials, necessary to facilitate compliance.</p> <p>(3) include compost and recycled mulch in all bid specifications for landscape contractors and in maintenance procedures for internal maintenance staff.</p> <p>(4) require that staff go to training on the use of compost and mulch for promotion or other advancement.</p> <p>We support building urban compost markets, but disagree with this mechanism for several reasons, based on our experience building compost and mulch markets in Alameda County. It does not make sense to base a compost procurement target on how much organics is generated. This target should be based on the potential for use. Also, it does not make sense to set the target for compost on transportation fuel use (which is unrelated). We recommend separate compost and RTF procurement requirements, especially because cities that do not send organics to AD are highly unlikely to have access to RTF as defined in the regs. In our experience, a better approach to incentivizing compost procurement in cities would be to require the cities to enforce the Water Efficient Landscape Ordinance (WELO). This approach is similar to that of Article 8, compliance with existing CALGreen requirements to require space for recycling and minimum C&D diversion. Enforcing the WELO would require compost use when appropriate, rather than requiring a consistent and arbitrary quantity every year, regardless of need and responding to the unrelated baseline of fuel use. In addition, cities could be required to use compost as part of landscape maintenance, with an application rate of 1/2 inch on certain types of landscape.</p> <p>Composters in Northern California sell out of compost, and in the landscape market, the market price ranges from \$10-100/cubic yard (not ton). Requiring cities to buy compost could be financially crippling (e.g., City of Pleasanton would spend about \$200k in materials cost (more with delivery) for over 7,790 CY of material; their current use is about 1,500 CY with which they are able to topdress 16 acres with available staff. Through WELO enforcement, the city required the use of 2,750 CY). As currently written, this measure could have unintended negative consequences on compost markets by forcing city procurement. If cities incorporate give-backs into franchise agreements at a reduced \$/CY, that could undermine composters' existing markets and potentially artificially increase market prices for other purchasers, including landscape contractors and ag.</p> <p>Currently, we see cities who have givebacks included in their contracts receiving the lowest quality compost, material that has gone anaerobic, is immature, and high</p>	<p>CalRecycle disagrees that the procurement target methodology needs revision. The purpose for the procurement target methodology is to create a transparent method for local governments to create markets for products generated by organics recycling facilities that is proportional to the number of residents in a jurisdiction. California has over 400 diverse jurisdictions and it would be prohibitively difficult to account for each jurisdiction's "potential for use" and to develop a procurement target and enforcement policy for each one.</p> <p>Regarding the comment about cubic yards, CalRecycle has added the following conversion: 1 ton of organic waste feedstock = 0.58 tons compost = 1.45 cubic yards compost. This is based on 1 ton compost = 2.5 cubic yards using the commenter's recommended bulk density factor of 800 lbs/cubic yard, which is the same value used by the Department of Transportation (CalTrans). Note that cubic yards does not replace tons in the regulatory language; it is simply an alternative unit of measure.</p> <p>The intent of the procurement requirements is to build markets for recovered organic waste products in response to the over 25 million tons of organics that are required to be diverted by SB 1383. There are numerous ways a jurisdiction can choose to meet the procurement target, and compost is only one of the pathways. CalRecycle has revised section 18993.1 to expand the list of eligible recovered organic waste products to provide even more flexibility to jurisdictions. If a jurisdiction chooses to procure compost, nothing in the draft regulations mandates that a jurisdiction must "incorporate givebacks", as suggested by the comment. Regarding the comment about low quality compost, nothing in the draft regulations forces a jurisdiction to accept material that does not meet their quality standards. If a city chooses not to procure compost, they can procure other recovered organic waste products such as mulch or renewable gas energy products. To clarify this point, CalRecycle has added language requiring that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. The definition of renewable gas specifies that it must be processed at a facility that is "permitted or otherwise authorized by Title 14 to recover organic waste."</p> <p>Regarding the proposal for a second regulatory proceeding, CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>levels of glass and plastic. If a city rejects loads due to poor quality, will they be penalized the state for not meeting their procurement targets? Given the complexity of this issue, we support the League of California Cities' recommendation to address procurement in a second regulatory proceeding.</p>	
3575	Obermeit, H., City of Berkeley for StopWaste	<p>See note for 3574 for proposed language. This comment addresses the SLCP and SRIA and their effects on the regulatory language. This measure is affected by mistakes and incorrect assumptions in the Short-Lived Climated Pollutant Plan and in the SRIA. This measure should include procurement of mulch. The SLCP Economic Analysis did not address the fact that the wood markets have crashed due to biomass plant closures, and there is no incentivizing or requirements for mulch purchases. This is a major oversight in the SLCP Economic Analysis and this issue needs to be addressed in the regs. The Economic Analysis also underestimated the cost of compost by at least half, stating the market price of compost as \$12-26/ton, rather than cubic yard (1 CY compost weighs 0.25-0.5 ton). The application rate used in the SRIA to estimate compost usage by cities is based on WELO (4 CY/1000 sf or ~1.3 inches), which is not appropriate for landscape maintenance. This rate is for new construction projects; a city is more likely to use compost as a top-dressing on existing landscape areas, which would have an application rate of 1/2 inch or ~1.5 CY/1000 sf) How can CalRecycle address these mistakes in upcoming draft language?</p>	<p>Comment noted. CalRecycle disagrees that the cost per ton of compost is underestimated. CalRecycle revised the estimated cost of compost in the Appendix to the ISOR. CalRecycle estimated the cost of compost by conducting a survey of several facilities in California, which found that the overall cost to purchase compost at a bulk rate, transport it, and apply the compost to land was \$30 per ton of compost.</p>
3576	Obermeit, H., City of Berkeley for StopWaste	<p>(g)(1)A Renewable transportation fuel -- Reduce this target and broaden definition of renewable transport fuel. This target seems high. CR&R says they fuel 90 of their 900 trucks with their current production. If SB1383 creates 45-75 more facilities similar to theirs, that would be 6,750 trucks that could be fueled, and it seems that this product would be easily consumed by these new facilities' fleets, as with CR&R. How much RTF is produced in the state? Isn't most of it used by the AD facility's fleet? Please explain the methodology and assumptions to arrive at 19 DGE.</p>	<p>CalRecycle disagrees with the comment's interpretation that the regulatory language mandates a specific target for renewable transportation fuel. That is not the case. The procurement requirements provide flexibility for a jurisdiction to procure recovered organic waste products that fit local needs. Renewable transportation fuel is only one of the pathways. CalRecycle has revised section 18993.1 to expand the list of recovered organic waste products to provide more flexibility to jurisdictions. In response to the amount of renewable transportation fuel (RTF) currently available, the intent of the procurement requirements are to build markets for recovered organic waste products. Therefore, the amount of renewable transportation fuel available today is likely not a reliable indicator of the amount that will be available once the regulations take effect. Regarding the use of renewable transportation fuel, section 18993.1(e)(2) specifically allows for "direct service providers" to procure and use recovered organic waste products on behalf of a jurisdiction. The example of CR&R, as a direct service provider, using renewable transportation fuel in their fleet would likely qualify towards a jurisdiction's procurement target, provided all other requirements are met. CalRecycle works closely with the Air Resources Board (ARB) to determine conversion factors for recovered organic waste products. The conversion factor for renewable fuel has since been updated from 19 diesel gallon equivalents (DGE) to 21 DGE based on the use of a higher heating value (HHV) basis versus the lower heating value (LHV) basis in order to be more consistent with most utility bills and other financial transactions for renewable gas. The conversion for 1 ton of organic waste to 21 DGE of renewable transportation fuel is based on ARB's "Simplified CI</p>

Comment Number	Received From	Question/Comment	Response(s)
			Calculator for Biomethane from Anaerobic Digestion of Organic Waste” and CA-GREET3.0, which was also subject to public comment.
3577	Obermeit, H., City of Berkeley for StopWaste	(g)(1)(B) 0.58 tons X cubic yards of compost Compost is not purchased by the ton in the landscape market because weight is highly dependent on moisture content and moisture content varies widely. Change tons to cubic yards and use a bulk density of 800 lb/CY to convert to tons. Cities should not be penalized because moisture content is low in a load.	CalRecycle has added the following conversion: 1 ton of organic waste feedstock = 0.58 tons compost = 1.45 cubic yards compost. This is based on 1 ton compost = 2.5 cubic yards using the commenter’s recommended bulk density factor of 800 lbs/cubic yard, which is the same value used by the Department of Transportation (CalTrans). Note that cubic yards does not replace tons in the regulatory language; it is simply an alternative unit of measure.
3578	Obermeit, H., City of Berkeley for StopWaste	Delete or change to "(h) If a jurisdiction's annual recovered organic waste product procurement target exceeds the jurisdiction's total procurement of transportation fuel and renewable transportation fuel from the previous calendar year as determined by the conversion factors in subdivision (g), the jurisdiction is only required to procure recovered organic waste products described in (f) in an amount equal to its total purchase of transportation fuel and renewable transportation fuel from the previous calendar year." Does transportation fuel include gas and diesel? Add definition. Does the baseline include the fuel used by direct service providers? How will a jurisdiction measure this? How will CalRecycle enforce this? What documentation will be required?	A change to the regulatory text is not necessary. A text change is not necessary for the following reason. This requirement was renumbered to section 18993.1(j) and revised to add previous year’s procurement of electricity and gas for heating applications, along with fuel. The intent of section 18993.1(j) is to provide jurisdictions with a method to lower the procurement target calculated in subdivision (b). The purpose is to ensure the recovered organic waste product procurement target does not result in the jurisdiction procuring more products than it can use. Jurisdictions have the option to use their previous year’s procurement of fuel, electricity, and gas for heating applications to show that those amounts were not procured in sufficient volumes to meet the procurement target. The baseline includes those energy products used by direct service providers. A jurisdiction can measure their previous year’s energy procurement by accounting for receipts, invoices, or any other documentation showing a known quantity of energy was purchased or produced. CalRecycle will enforce consistent with the provisions of Record Keeping (18993.2), Reporting (Article 13), and Enforcement (Article 14). If, during enforcement, CalRecycle determines that a jurisdiction has not met its procurement target, then a jurisdiction must show at that time that it has met the requirements for a lowered procurement target pursuant to 18993.1(j).
3579	Obermeit, H., City of Berkeley for StopWaste	18993.1 -- Add (1) Recycled Mulch Considering that green material will also be increasing, providing a requirement for cities to require the use of recycled mulch on all city landscapes will be a useful outlet for this material. Wood markets are suffering, and using mulch has multiple co-benefits, including reduced use of herbicides due to weed suppression, water savings of 40-70%, reduced soil compaction, and reduced N2O emissions. Mulch procurement can be enforced by requiring delivery tags noting mulch type and source for purchased mulch. Mulch generated through city landscape maintenance should also count toward this target and can be enforced through review of city specifications and requirements. Note: Fentabil et al. Effect of micro-irrigation type, N-source and mulching on nitrous oxide emissions in a semi-arid climate: An assessment across two years in a Merlot grape vineyard. Agricultural Water Management 171 (2016) 49–62	CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
3580	Obermeit, H., City of Berkeley for StopWaste	(a) A jurisdiction shall include all documents supporting its compliance with this article in the implementation record required by Section 14.40 of this chapter, including, but not limited to, the following: (1) City standard details and/or specifications requiring use of compost and recycled mulch on all projects in city.	A change to the regulatory text is not necessary. A text change is not necessary for the following reason. CalRecycle disagrees with the comment’s rationale for replacing the recovered organic waste product procurement target with specifications for compost and mulch use only, as this approach ignores the jurisdictions that have no need for these products. This same argument applies the proposed revisions in the record-keeping requirements. CalRecycle also disagrees with

Comment Number	Received From	Question/Comment	Response(s)
		<p>(2) City landscape maintenance practices, manuals, or schedules showing requirements to use compost and recycled mulch</p> <p>(3) Policy for landscape maintenance staff to take and pass a training on use of compost and mulch as criterion for promotions or other advancement.</p> <p>(1) A description of how the jurisdiction will comply with the requirements of this article.</p> <p>(2) The name, physical location, and contact information of the entity from whom the recovered organic waste products were procured.</p> <p>(3) All invoices or similar records, such as delivery tags, or annual vendor statement, evidencing all purchases. (4) If a jurisdiction will include purchases of recovered organic waste products made by a direct service provider to comply with this article, the jurisdiction shall include all records of purchases of recovered organic waste products made by the direct service provider on behalf of the a jurisdiction including invoices or similar records evidencing purchases. Flexibility for jurisdictions on purchasing what they need. Reduces already onerous reporting burden on jurisdictions and reviewing burden on the department. Description of how jurisdiction will comply does not demonstrate compliance; replace with specs/details, etc. Also, if requiring invoices or similar, requiring the name etc. of the supplier is redundant.</p>	<p>the proposed language additions in (3) as it is redundant to the existing language requiring “similar records evidencing all procurement”.</p>
3581	Obermeit, H., City of Berkeley for StopWaste	<p>(1) At least 75 percent of a jurisdiction's annual purchases of paper products shall be recycled content paper.</p> <p>"Paper products" is very broadly defined and it would be very difficult for smaller jurisdictions to track paper product purchasing that might be integrated with other office supply purchasing that are currently coded as just office supplies purchased, so it would be better to focus on tracking a subset of the paper purchases. From Alameda County: I think the copy paper requirement is fine. 30% PCR is adequate as a statewide goal and the tracking, while time consuming, is pretty straightforward, as long as we can use vendor reports to track. I am concerned about the other paper product requirement. Some of the PCR thresholds for the products listed are typically set lower than 30% PCR currently. So it will be more difficult to meet it within the current national markets. It will also add a significant burden of time for tracking.</p>	<p>The language has been changed to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content.</p> <p>Regarding the comment about “significant burden of time for tracking”, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them by early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
3582	Obermeit, H., City of Berkeley for StopWaste	<p>c) A jurisdiction shall require all businesses from whom it purchases paper products and printing and writing paper to certify in writing: (1) The minimum percentage, if not the exact percentage, of postconsumer material in the paper products and printing and writing paper offered or sold to the jurisdiction. The certification shall be furnished under penalty of perjury in a form and manner determined by the jurisdiction. A jurisdiction may waive the certification requirement if the percentage of postconsumer material in the paper products, printing and writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor Internet website.</p>	<p>The language has been changed to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content.</p>

Comment Number	Received From	Question/Comment	Response(s)
3583	Obermeit, H., City of Berkeley for StopWaste	<p>(a) A jurisdiction shall include all documents supporting its compliance with this Article in the implementation record...including, but is not limited to, the following: (1) Copies of invoices or receipts or other electronic records for all printing and writing paper purchases. Paper products is very broadly defined and it would be very difficult for smaller jurisdictions to track paper product purchasing that might be integrated with other office supply purchasing that are currently coded as just office supplies purchased, so it would be better to focus on tracking a subset of the paper purchases. From Alameda County: I think the copy paper requirement is fine. 30% PCR is adequate as a statewide goal and the tracking, while time consuming, is pretty straightforward, as long as we can use vendor reports to track. I am concerned about the other paper product requirement. Some of the PCR thresholds for the products listed are typically set lower than 30% PCR currently. So it will be more difficult to meet it within the current national markets. It will also add a significant burden of time for tracking. Also, for some jurisdictions, they may be able to get vendor reports of the purchases which would lessen the burden of having to keep copies of all invoices/receipts.</p>	<p>The language has been changed to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content. CalRecycle disagrees with narrowing the definition of “paper products”. Paper is an organic material, and as such is subject to the ambitious organic waste diversion targets required by SB 1383. Therefore, it is within the purview of this regulation to build markets for recycled content procurement of all paper products, not just a certain subset of paper. It should also be noted that the broad range of products is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. There is no requirement to purchase all of the paper products listed.</p>
3584	Obermeit, H., City of Berkeley for StopWaste	<p>(a) Commencing August 1, 2023 <u>2022</u>, and annually thereafter, a jurisdiction shall report the information required by this section. The report submitted in 2022 shall cover the period of January 1, 2022-June 30, 2022. Each subsequent report shall cover the entire previous calendar One month (July 2022) is way too short a time to pull together the extensive reporting required for a Jan to Jun 2022 time period. Many franchise agreements require haulers to report data to the jurisdiction, but the time specified to submit the reports may be longer than one month. It's also repetitive for the full calendar year 2022 to be reported in Aug. 2023.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>
3585	Obermeit, H., City of Berkeley for StopWaste	<p>e) A jurisdiction shall report the following regarding its implementation of education and outreach required in Article 4. (1) The number of organic waste generators and edible food generators that received information required by Article 4. (2) The number of limited English speaking and linguistically isolated households that received information required by Article 4. An explanation of how limited English speaking and linguistically isolated households were provided information. A jurisdiction will most likely not have access to how many households exactly are limited English speaking and linguistically isolated at any one time. What if the households are in apartment buildings that have high turn-over rate? If a jurisdiction includes multiple language on their mailed educational materials that are sent to every residential garbage account, then they can explain that's how they communicated with limited English speaking and linguistically isolated households rather than providing a number.</p>	<p>CalRecycle has revised section 18994.2(e) in response to this comment. This was removed from the reporting requirements due to the difficulty of knowing the number of limited English speaking and linguistically isolated households that received information as required by Article 4.</p>
3586	Obermeit, H., City of Berkeley for StopWaste	<p>(f) A jurisdiction shall report the following regarding its implementation of the hauler oversight requirements of Article 7:...(5) The total amount, in tons, of source separated organic waste that was self-hauled by organic waste generators and</p>	<p>Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>reported to the jurisdiction pursuant to Section 18988.3. The number of accounts with at least 2 cubic yards of weekly garbage service that are approved to self-haul their source-separated organic waste.</p> <p>Not all self-haulers are equal and some are very small in amount self-hauled. Currently, for our MRO implementation at commercial accounts, if they are self-hauling, back-hauling, sharing service or using a third-party recycler, they are supposed to submit a Certification of Recycling Service (CRS) form to indicating what they are doing and that they are complying with our MRO, but we do not require reporting of weights. Some of these accounts report that they are taking their recyclables home or otherwise don't have a lot of garbage service because they are smaller businesses. We have about 400 accounts county-wide (out of ~21,000 total commercial accounts) that have approved CRS forms and it would be very difficult and time-consuming to try and get annual tons reported to us, entered into our database and tracked.</p>	<p>Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.</p>
3587	Obermeit, H., City of Berkeley for StopWaste	<p>(2) The number of food recovery services and organizations located and operating within the jurisdiction that collect or receive more than 6 tons of food per year from Tier one or Tier two commercial edible food generators.</p> <p>Would reduce the reporting burden if there are food recovery services or organizations that collect edible food from other entities than Tier one or Tier two commercial edible food generators. Reporting all food received, if not received from Tier I or II generators, does not support regulatory requirements, and should not be required.</p>	<p>To help clarify the reporting requirements for food recovery organizations and food recovery services the regulatory text was revised. The revised text clarifies that a jurisdiction shall require food recovery organizations and food recovery services that are physically located within the jurisdiction and contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3 (b) to report the total pounds of edible food recovered (from commercial edible food generators) in the previous calendar year to the jurisdiction. To clarify further, any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators is required to report to the jurisdiction. Specifically, they are required to report (to one jurisdiction) the total pounds of edible food that were collected or received directly from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Regulated food recovery organizations and food recovery services are not required to report the pounds of edible food recovered from entities that are not commercial edible food generators, nor are they required to track or report residual food waste as such a requirement could be overly burdensome and infeasible to comply with. Food recovery organizations and services should have the data on the pounds of edible food recovered from tier one and tier two commercial edible food generators because Section 18991.5 requires them to maintain a record of the quantity in pounds of edible food collected and received from each commercial edible food generator that they contract with or have a written agreement with pursuant to Section 18991.3 (b). If food recovery organizations and food recovery services are in compliance with the recordkeeping requirements specified in Section 18991.5, then they will have the information that is necessary to comply with the requirement to report the total pounds collected from tier one and tier two commercial edible food generators in the previous calendar year to the jurisdiction.</p>
3588	Obermeit, H., City of Berkeley for StopWaste	<p>(3) The jurisdiction shall report on the total amount of edible food recovered by edible food recovery organizations and services that are located within its jurisdiction and required to report to the jurisdiction. How would the jurisdiction know the amounts of from those that aren't to report to it? Some food recovery</p>	<p>The regulations are structured to ensure that double counting of pounds recovered will not occur. Double counting should not occur because the requirement is for food recovery organizations and food recovery services to only report the pounds they collect or receive directly from commercial edible food generators. For example, if a food recovery service collects food directly from a</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>services may transport edible food to food recovery organizations, so have to reduce the likelihood of double counting.</p>	<p>commercial edible food generator, then the food recovery service is responsible for maintaining a record of those pounds collected and also responsible for reporting those pounds to one jurisdiction (the jurisdiction where the food recovery service's primary address is physically located). If a food recovery organization receives food from a food recovery service, that food recovery organization is not responsible for reporting those pounds of food to the jurisdiction because the food was not collected or received directly from a commercial edible food generator. To clarify further, any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators is required to report to the jurisdiction. Specifically, they are required to report (to one jurisdiction) the total pounds of edible food that were collected or received directly from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Food recovery organizations and food recovery services are not required to report the pounds of edible food recovered from entities that are not commercial edible food generators, nor are they required to track or report residual food waste as such a requirement could be overly burdensome and expensive to track.</p> <p>Food recovery organizations and services should have the data on the pounds that were recovered directly from tier one and tier two commercial edible food generators because Section 18991.5 requires them to maintain a record of the quantity in pounds of edible food collected and received directly from each commercial edible food generator that they contract with or have a written agreement with pursuant to Section 18991.3(b). If food recovery organizations and food recovery services are in compliance with SB 1383's recordkeeping requirements, then they will have the information that is necessary to comply with the requirement to report the total pounds recovered directly from tier one and tier two commercial edible food generators.</p>
3589	Obermeit, H., City of Berkeley for StopWaste	<p>(2) The total dollar amount spent on all printing and writing paper purchases. (3) The total dollar amount spend on all printing and writing recycled content paper purchases. See above comments about the difficulty of purchasing and tracking purchasing of such a broad definition of paper product purchases. Printing and writing paper purchases may be more doable.</p>	<p>The language has been changed to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content.</p> <p>Regarding the comment about "significant burden of time for tracking", CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them by early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
3590	Obermeit, H., City of Berkeley for StopWaste	<p>(1) The number of commercial businesses subject to compliance reviews and the number of violations found and corrected through compliance reviews. It is difficult to determine with an entity has "corrected" their violation. May not have real-time information about when an account has added service.</p>	<p>A change is not necessary. Jurisdictions are not required to report in real time. Records must be kept accurate within 60 days, and reporting is on an annual basis.</p>
3591	Obermeit, H., City of Berkeley for StopWaste	<p>(7) The number of entities by type (generator, hauler, edible food generators) that came into compliance in the calendar year.</p>	<p>A change is not necessary. Jurisdictions are not required to report in real time. Records must be kept accurate within 60 days, and reporting is on an annual basis.</p>

Comment Number	Received From	Question/Comment	Response(s)
		As noted above, it is often difficult to determine who came into compliance in any one year and not until the next inspection which may not be in that same reporting year.	
3592	Obermeit, H., City of Berkeley for StopWaste	<p>(1) On or before January 31, 2022, and at least annually thereafter,...the jurisdiction shall: 1. Complete a compliance review of all garbage accounts for commercial businesses that are subject to its authority, and that generate two cubic yards or more per week of solid waste and produce organic waste, in order to determine compliance with: i. Organic waste generator requirements set forth in Section 18984.9. ii. Self-haul requirements set forth in Section 18988.3, including whether a business is complying through backhauling organic waste. 2. Conduct route reviews of commercial businesses that are not multifamily properties 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. Section 18984.9 includes organics service and for commercial businesses (defined as also including multifamily accounts with 5 or more units) and also includes providing containers in all disposal areas and prohibiting their employees from placing organics in garbage. What if a jurisdiction can't get access to inspecting all accounts? In MRO implementation, when we tried to inspect multifamily accounts, we found that we couldn't get access to about half the accounts and we don't currently inspect unless there's a complaint (and then only for provision of service, not improper sorting). For commercial accounts above 1 cy garbage/week, we've found that about 15% of the time, we can't get access to inspect. Need some allowance for no access. Also, route review means visual inspection and particularly as it pertains to container contamination, there is a higher level of expected privacy at residential accounts (single-family and multi-family).</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter. The Department wanted to ensure a fair playing field for all entities and to identify that jurisdictions have the primary responsibility in monitoring compliance and taking enforcement on entities failing to comply with the chapter. A compliance review is intended to be a "desk audit" to verify that all solid waste accounts for commercial businesses, that generate two cubic yards or more per week of solid waste, are subscribing to service or self-hauling organic waste to a facility that processes source separated organic waste or to a high diversion organic waste processing facility, whichever if applicable. The regulations allow the jurisdiction flexibility when conducting a "sufficient number of route reviews and inspections." Jurisdiction may prioritize route reviews and inspections to large generators or entities it determines to be more likely out of compliance. If an entity is found to be noncompliant between January 1, 2020 through December 30, 2023, jurisdictions are required to provide educational material describing the applicable requirements of this Chapter.</p>
3593	Obermeit, H., City of Berkeley for StopWaste	<p>(2) Conduct inspections of Tier One commercial edible food generators that have not provided documentation of their compliance with the requirements set forth in Section 10.3 and 10.4 and food recovery organizations for compliance with this chapter. Even jurisdictions that already have an MRO would have to adopt a new ordinance to give them the authority to inspect/enforce for the commercial edible food generator requirements. Lessen the need for costly on-site inspections by allowing edible food generators to submit their records. Having CalRecycle work with an entity, such as Green Halo or Feeding America, to help facilitate a streamlined, standardized reporting platform that jurisdictions could use would significantly reduce the reporting burden. We would need to adopt a new Ordinance to give us authority to inspect/enforce for the commercial edible food generator requirements. But, the tier one commercial edible food generators are already inspected by the Environmental</p>	<p>Section 18981.2 specifies that a jurisdiction may designate a public or private entity to fulfill its responsibilities through a contract or MOU. A jurisdiction could enter into an MOU with an environmental health department to achieve the benefits noted in the comment.</p>

Comment Number	Received From	Question/Comment	Response(s)
		Health Dept, so maybe they could more easily incorporate this into their inspection process.	
3594	Obermeit, H., City of Berkeley for StopWaste	Delete or change to (6) Annually Periodically verify through inspection, annual review or route review businesses are meeting de minimus and physical space waivers for compliance with the requirements of Section 18984.11. These are the smallest generators so we should not waste our time on inspecting these accounts on an annual basis, which may be more frequent than we are inspecting other larger accounts/generators. The physical space constraints aren't going to change every year. In our MRO implementation, we do a site investigation in the waiver approval process and then require them to tell us if anything changes regarding their solid waste situation. We do not go back to inspect or annually review these accounts because we are prioritizing inspections at accounts that don't have a waiver (and are likely larger).	CalRecycle has revised the verification period to five years in response to this comment. Thank you for the support comment. This comment is in support of the current language.
3595	Obermeit, H., City of Berkeley for StopWaste	c. A jurisdiction shall generate a written report or keep electronic records for each inspection, route review, and compliance review conducted pursuant to this Chapter. We contain all our inspection/enforcement data in our CRM and provide monthly reports to member jurisdictions about enforcement letters that went out in the prior month, but providing a written report for every inspection (we have conducted thousands a year) would be overly burdensome/expensive.	Thank you for the comment. CalRecycle has revised this section to include electronic records.
3596	Obermeit, H., City of Berkeley for StopWaste	(3) A list of the date that the jurisdiction determined the entities issued a Notice of Violation for lack of organics collection service came into compliance and evidence that supports compliance. We won't necessarily know the exact date an entity came into compliance, but if we inspected again and they were in compliance then, we would know the date that we determined they were in compliance. In MRO implementation, we don't have real-time access to hauler data to know when they started organics service. Also, if they have an improper sorting violation, it's transient and it could be the next collection day when the materials are taken away that they could be considered in compliance and it can go back and forth from compliance to noncompliance in subsequent inspections.	The regulatory language was changed to address stakeholder comments and now reflects the date that the jurisdiction determined that an entity complied with a Notice of Violation
3597	Obermeit, H., City of Berkeley for StopWaste	(b) The Implementation Record shall be stored in one central location, physical or electronic, for records to be provided to the Department if the Department has evidence that the jurisdiction may be out of compliance with this Chapter that can be readily accessed by the Department. The jurisdiction shall provide its central location for records and a point of contact to the Department to facilitate the Department's review of the records. Service level data that is under trade secrets protection shall not be subject to Public Records Request Act disclosure. The annual reporting to CalRecycle is already extensive. Our enforcement data is in our CRM and it would be difficult to have it be readily accessed by the Department. Either in this item or elsewhere, it should be stated that proprietary/trade secret-protected service level data should be protected against disclosure in the Public Records Request Act. Can jurisdictions designate another entity (e.g. StopWaste) to	Section 18981.2 specifies that a jurisdiction may designate a public or private entity to fulfill its responsibilities through a contract or MOU. A jurisdiction could enter into an MOU with an environmental health department to achieve the benefits noted in the comment.

Comment Number	Received From	Question/Comment	Response(s)
		be the keeper of portions of their Implementation Record, such as generator inspection records, photos and enforcement letters (if we could work out a way for it to be accessed by the Department upon request)?	
3598	Obermeit, H., City of Berkeley for StopWaste	(c) Upon request by the Department, the jurisdiction shall provide access to the Implementation Record within fifteen one business days. One business day is too short. What if the jurisdiction point of contact is on vacation? Jurisdictions have more to do than just work on this.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
3599	Obermeit, H., City of Berkeley for StopWaste	<p>(2) The jurisdiction shall conduct follow-up inspections to determine if compliance is achieved, at least every 90 days following the date of the first Notice of Violation, and continue to issue Notice of Violation until compliance is achieved or a penalty has been issued. (3) The jurisdiction shall commence actions to impose a penalty pursuant to Article 16 on the entity within the following timeframes: (A) For a first violation no later than 150 days after the issuance of the Notice of Violation. (B) For a second violation and all subsequent violations, no later than 90 days after the issuance of the Notice of Violation.</p> <p>Delete item 2 or 3 or combine/merge. Items 2 and 3 are duplicative and its not clear how they are different. If keep item 3, for (A), what if the entity comes into compliance after the Notice of Violation and the language reads that</p>	<p>With respect to the time frame for issuing NOVs; The comment is not directed at the changes to the third regulatory draft. The 90-day timeline was established in the first draft of regulatory text. The 180-day timeline is not a substantive change from the original draft. The original text allowed for an extension of up to 90 days (allowing a total extension of 180 days), the text was changed to read more clearly to state that an extension may be granted for up to a total of 180 days which is functionally equivalent to the original text.</p> <p>Comments on the NOV timeline are addressed in Enforcement Table I which addresses comments on the original draft of text.</p> <p>CalRecycle established the timeline of 90 days and allowed for 90- day extensions as it is a common regulatory timeline for correcting violations or complying with regulatory orders or agreements. The 90-day timeline and the 90-day extension (providing for a total of 180 days) reflects timelines for stipulated agreements issued by solid waste Enforcement Agencies (EAs) to bring facility operators into compliance. This is articulated in CCR Section 17211.2. This section allows an EA to issue a stipulated agreement establishing terms and conditions that must be met within 90 days and provides EAs an allowance to extend the timeline once by 90 days. Similarly, CCR Section 18072 requires EAs to correct staffing deficiencies within 90 days, and CCR Section 18362 provides solid waste facilities 90 days to correct violations of state minimum standards prior to being listed in the facility inventory.</p> <p>The timelines for correcting NOVs and extended NOVs is intended to accommodate violations that can be corrected within three months or six months respectively, such as a deficiency in records, or similar to CCR Section 18072 a deficiency in staffing. For violations that require additional time to cure, CalRecycle established the Corrective Action Plan in this article with minimum timeframes.</p> <p>The language allows initial CAPs (which allow up to 24 months to achieve compliance) to be issued when a jurisdictions has made substantial effort to correct violations but extenuating circumstances prevent compliance within 180 days. The regulations further allow an initial CAP issued specifically due to a lack of recycling capacity to be extended and additional 12 months, allowing a CAP to extend a total of 36 months providing three years to correct a violation.</p> <p>The commenter requests that rather than allowing CAPS due to infrastructure deficiencies to be extended for a period of 12 months, that CAPS can be extended in perpetuity. This proposal would violate the intent and the provisions of SB 1383. The statute requires CalRecycle to adopt regulations to achieve organic waste reduction goals for 2020 and 2025. The timelines for the CAP were carefully crafted in consideration of these statutory timelines and the effective date of the regulation. An extended CAP allows a jurisdiction that is in violation of requirements due to infrastructure deficiencies, 36 months from the effective date of the regulations to come into</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>compliance. This effectively allows jurisdictions to be in violation of the requirements of SB 1383 through the year 2025.</p> <p>The timelines allowed for in the CAP represent the maximum amount of flexibility CalRecycle can provide while still meeting the requirements of the statute. The statute requires that the regulations are designed to achieve the statutory targets required by 2025. The regulations comply with this requirement by imposing requirements on regulated entities that those entities must implement beginning in 2022. To ensure that the regulations are effective and are affirmatively designed to meet the required intent of the statute, the regulations necessarily include penalties for violations of the requirements. In recognition of stakeholder feedback regarding a lack of infrastructure, CalRecycle developed the CAP to allow jurisdictions that are in violation of the requirements, such as the requirement to provide organic waste recycling services to generators due to a lack of infrastructure, additional time to come in to compliance by 2025. The requirement to provide organic waste recycling services is the foundational requirement of the regulation, and it is indisputably essential to achieving the 2025 reduction targets.(see Article 3 of the Statement of Reasons) Allowing jurisdictions to violate the requirement to provide service beyond 2025 with no penalties or consequences would invalidate the regulations. That is the department could not adopt the regulations as they would not meet the basic statutory obligation that they be designed to achieve the statutory target to reduce disposal 75 percent below 2014 levels by the year 2025.</p> <p>In other words, intentionally crafting language allowing jurisdictions to violate the requirement to provide organic waste recycling service beyond 2025 is fundamentally incompatible with the requirement to achieve the 2025 organic waste reduction targets.</p> <p>With respect to the timelines in the CAP, CalRecycle notes the CAP must be viewed with consideration of existing statutory timelines and requirements, not only the timelines in this regulation. Requirements for jurisdictions to provide organic waste recycling services are not novel or unique to these regulations. The state began phasing in requirements for jurisdictions to provide organic waste recycling requirements 2014 (see AB 1826), and as early as 2008 the State's Scoping Plan established reductions in organic waste disposal as a key part of the state's climate strategy. Existing state law requires jurisdictions to gradually offer organic waste recycling services to an increasing number of generators. As a result, jurisdictions are required to offer organic waste recycling service to the vast majority of their commercial businesses prior to the effective date of these regulations. As noted in Appendix A to the ISOR, commercial businesses constitute 60 percent of solid waste generation. If jurisdictions took action to secure capacity necessary to comply with the provisions of existing law, the requirements to provide service to the balance of their generators will be a smaller step. Even if jurisdictions have not made a good faith effort to comply with existing organic waste recycling statutes, CalRecycle further notes that the SB 1383 was adopted in 2016. One should not view the timeline the years 2022-2025 in isolation, but should consider that many of the basic requirements of the statute were clear as early as 2016, nine years prior to when the first CAPS will expire.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p> <p>Finally, CalRecycle notes that the commenter recommends replacing all timelines with "for a reasonable period according to the actions required." The established timelines are specifically designed to allow a reasonable period for compliance depending on the circumstances of the violation (whether it can be corrected in the timeline of an NOV, or if it the violation requires and warrants a CAP). The proposed language of "reasonable" is open-ended and provides no regulatory certainty to entities subject to oversight. The commenters have provided no recommendation for factors to determine how "reasonable" would be interpreted as an objective standard that can be applied equally to all regulated entities. As proposed, the alternative text could result in an uneven application of enforcement.</p> <p>With respect to allowing CAPS to also be extended for "any extenuating circumstance" or any violation in general, to clarify, the existing language provides that a CAP may be issued for any violation that occurs provided that the jurisdiction made a substantial effort to achieve compliance, but extenuating circumstances prevented compliance. Extenuating circumstances are not limited to infrastructure deficiencies. They also include circumstances such as natural disasters. The section identified by the commenter applies additional prerequisites to the use of CAPs that are issued due to a lack of infrastructure, but it does not preclude CAPs from being issued for circumstances not related to infrastructure. No change to the regulatory text is necessary as the existing text accommodates the policy requested by the commenter.</p> <p>The comment is not germane to changes made in the third draft of the regulatory text. The timelines were established in the first draft of the regulatory text released in January of 2019. CalRecycle disagrees with the comment that the enforcement timelines are unrealistic. The timelines established in the regulation reflect the ambitious organic waste reduction targets and the essential role compliance with the regulation plays in achieving those targets. The timelines proposed by the comment would frustrate the purpose of the statute, and would establish minimum fines for violations that are orders of magnitude lower than cost of compliance.</p> <p>The department notes that as structured this section requires a jurisdiction to take action to commence a penalty 150 days after issuing the NOV, the NOV can be issued up to 60 days after a violation was discovered. This allows the commencement of an enforcement action to occur 210 days after an entity was found out of violation. This provides a jurisdiction up to 7 months to educate a violator and bring them into compliance before a penalty action must commence. This is in accordance with the requirements established in Section 53069.4 which require a local agency to provide a reasonable period of time to remedy a violation prior to the imposition of administrative fines. The actual issuance of the penalty may require additional time as well,</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>further extending the time to correct a violation, and the time between the occurrence of the violation and the issuance of a penalty for that violation.</p> <p>Extending the timelines as proposed would confound the timelines conceivably preventing the issuance of a penalty for a second or subsequent violation or offense as provided in the relevant sections of the Government Code. As noted above Section 53069.4 of the Government Code establishes procedures for issuing penalties, which these regulations conform to. Sections 25132 and 36900 of the Government Code additionally establish maximum penalty amounts, and timelines for issuing penalties for a second offense and subsequent offense.</p> <p>Under Sections 25132 and 36900 of the Government Code, a jurisdiction can only issue a fine for a second or third violation if the violation occurs within one year of the first violation. In practice, if a jurisdiction delays the levying of a penalty to the maximum amount of time permitted in the regulation to commence a penalty (7 months), the issuance of a second penalty for that violation is nearly precluded. Extending the timelines as proposed by the commenter would effectively make the minimum timelines for issuance of a first penalty preclude the issuance of a penalty for a second violation in all circumstances. This would artificially limit the maximum fine amount to no more than \$100 per year for a violation as fundamental as the requirement that businesses participate in organic waste recycling service provided by the jurisdiction. The department estimates the cost of compliance with obtaining organic waste recycling service will average \$80 per month. Under the text proposed by the commenter, the minimum fine amount for failure to have organic waste recycling service would be orders of magnitude less than the cost of compliance. Therefor the language proposed in the comment is incongruent with achieving the statutory targets.</p>
3600	Obermeit, H., City of Berkeley for StopWaste	<p>c) A jurisdiction shall provide the following information in any Notice of Violation or other enforcement actions:...(4) The penalty for not complying within the specified compliance date or the penalty issued.</p> <p>Added language allows for if the enforcement letter is the citation where the penalty is already imposed.</p>	<p>A change to the regulation is not necessary, nothing in the regulation precludes a jurisdiction from including a penalty in a notice of violation.</p>
3601	Obermeit, H., City of Berkeley for StopWaste	<p>Property owner or business owner fails to provide or arrange for organic waste collection services consistent with Article 3 of this chapter for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color, as prescribed by this Section. 1st violation = Penalty Level 1 (\$50-\$100/violation). 2nd violation = Penalty Level 2 (\$100-\$200/violation). 3rd violation = Penalty Level 3 (\$250-\$500/day). It's to hard to verify for sufficient signage and container color inside the business. Plus, if they are providing the service and they are properly sorting (they don't get a violation for Section 30.9 (b)(2) failing to prohibit their employees from placing organic waste in a container not designated to receive organic waste), then the internal signage and container color doesn't matter so much. It's also too difficult to for a jurisdiction to determine the exact number of days they are in violation of this requirement, so it should be a per violation instead of per day penalty. When the penalties get too high on the</p>	<p>Comment noted. In section 18995.1, jurisdictions are required to complete a compliance review of all garbage accounts for commercial business that generate two cubic yards or more per week of solid waste and produce organic waste to verify they are subscribing to service and educate organic waste generators as prescribed in Article 4.</p> <p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p> <p>The penalty tables containing the language the commenter is referring to were deleted from the proposed regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		generators, they often just don't pay and it's difficult for jurisdictions to actually get them to pay. In MRO implementation, we have about a 25% delinquent rate in our fines.	
3602	Obermeit, H., City of Berkeley for StopWaste	Property owner or business owner fails to provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and proper sorting annually, as prescribed by this section. It's too difficult for a jurisdiction to inspect/verify if they provided the information annually or not. In MRO, we have this requirement, but we are not enforcing against it because it's too difficult to verify.	<p>Comment noted. In section 18995.1, jurisdictions are required to complete a compliance review of all garbage accounts for commercial business that generate two cubic yards or more per week of solid waste and produce organic waste to verify they are subscribing to service and educate organic waste generators as prescribed in Article 4.</p> <p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p> <p>The penalty tables containing the language the commenter is referring to were deleted from the proposed regulations.</p>
3603	Obermeit, H., City of Berkeley for StopWaste	Organic waste generator, that is a commercial business, fails to provide containers for the collection of organic waste and nonorganic recyclables in all areas where disposal containers are provided for customers. 1st violation = Penalty Level 1 (\$50-\$100/violation). 2nd violation = Penalty Level 2 (\$100- \$200/violation). 3rd violation = Penalty Level 3 (\$250-\$500/day). It's too difficult, onerous and costly for a jurisdiction to inspect/verify if they provided the containers in all areas where disposal containers are provided for customers. Plus, what if certain areas such as bathrooms do not generate 3 separate streams of materials or if the business knows that bins (even with good signage) in certain customer areas will be too contaminated? It's also too difficult to for a jurisdiction to determine the exact number of days they are in violation of this requirement, so it should be a per violation instead of per day penalty.	<p>Comment noted. In section 18995.1, jurisdictions are required to complete a compliance review of all garbage accounts for commercial business that generate two cubic yards or more per week of solid waste and produce organic waste to verify they are subscribing to service and educate organic waste generators as prescribed in Article 4.</p> <p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p> <p>The penalty tables containing the language the commenter is referring to were deleted from the proposed regulations.</p>
3604	Obermeit, H., City of Berkeley for StopWaste	Organic waste generator, that is a commercial business, fails to periodically inspect waste containers for contamination, and inform employees if containers are contaminated and of the requirements to only use those containers for organic waste. 1st violation = Penalty Level 1 (\$50-\$100/violation). 2nd violation = Penalty Level 1 (\$50-\$100/violation). 3rd violation = Penalty Level 2 (\$100-\$200/violation). It's too difficult for a jurisdiction to verify that a generator failed to periodically inspect their own containers and inform employees. Even if they continue to get a contamination penalty, maybe they still did periodically inspect their own containers and inform employees but the employees are still not sorting properly.	<p>Comment noted. In section 18995.1, jurisdictions are required to complete a compliance review of all garbage accounts for commercial business that generate two cubic yards or more per week of solid waste and produce organic waste to verify they are subscribing to service and educate organic waste generators as prescribed in Article 4.</p> <p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>

Comment Number	Received From	Question/Comment	Response(s)
			The penalty tables containing the language the commenter is referring to were deleted from the proposed regulations.
3605	Obermeit, H., City of Berkeley for StopWaste	<p>Tier Two and Tier Two commercial edible food generator fails to arrange to recover edible food and comply with this section...1st violation = Penalty Level 1 (\$50-\$100/violation). 2nd violation = Penalty Level 2 (\$100-\$200/violation). 3rd violation = Penalty Level 3 (\$250-\$500/day).</p> <p>Recommendation -- Modify so there's some allowance for if there is not an organization or service that wants the edible food that they generate. Commercial edible food generator shouldn't be penalized if local food recovery organizations or services don't have the capacity to collect/accept or the need for the edible food that the business generates.</p>	<p>Comment noted. In section 18995.1, jurisdictions are required to complete a compliance review of all garbage accounts for commercial business that generate two cubic yards or more per week of solid waste and produce organic waste to verify they are subscribing to service and educate organic waste generators as prescribed in Article 4.</p> <p>CalRecycle has revised section 18991.3 in response to this comment. Section 18991.3 allows for a commercial edible food generator to demonstrate the existence of extraordinary circumstances beyond its control that make compliance impractical. This was necessary to provide relief from enforcement if the edible food generator has proved the jurisdiction failed to increase edible food recovery capacity as required in Section 18991.1 or was unable to comply due to acts of God such as earthquakes, wildfires, flooding and other emergencies or natural disasters. Also, Section 18995.4 allows the jurisdiction to extend compliance deadlines if it finds that extenuating circumstances beyond the control of the respondent make compliance within the deadlines impracticable, such as edible food recovery capacity deficiencies.</p> <p>In addition, the penalty tables in Section 18997.2 were deleted from the rulemaking and discretion is left to local jurisdictions to set penalties consistent with applicable limitations in the Government Code.</p>
3606	Obermeit, H., City of Berkeley for StopWaste	<p>Jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its procurement target, as prescribed in this section.</p> <p>Recommendation -- Reduce fine levels and make them per year instead of per day. Only if proposed procurement targets remain. If procurement targets are annual, it is not appropriate to calculate the fine on a per-day basis. Example: a city fails to meet its annual procurement goal by 1,000 CY. Is the fee charged per day until the city procures the additional 1,000 CY? Is it retroactive? If the city has to during the next enforcement year, and doesn't meet the target again because of attributing the 1,000 CY to the previous year, is the fine assessed again for the next year? This could lead to a never-ending string of fines. Alternatively, are the fines automatically set to cover a full year, until the city reports for the following year, making the minimum fine \$182,500? Note: 500-2400/day, 1000-5000/day</p>	CalRecycle has revised section 18997.3 in response to this comment. The penalty levels have been modified for procurement violations in response to comments.
3607	Obermeit, H., City of Berkeley for StopWaste	<p>Base Table 8 for Organic Waste Generators Requirements, Base Table 9 for Property Owner and Business Owner Responsibilities, Base Table 10 for Commercial Edible Food Generators.</p> <p>Recommendation -- Better explain the difference between Property Owner and Business Owner Responsibilities different penalty levels in Section 16.2 Table 1 versus Section 16.3 Tables 8, 9, and 10. It's not clear why the same violations carry different penalty levels in Section 16.2 Table 1 compared to Section 16.3 Tables 8, 9 and 10.</p>	<p>Comment noted. In section 18995.1, jurisdictions are required to complete a compliance review of all garbage accounts for commercial business that generate two cubic yards or more per week of solid waste and produce organic waste to verify they are subscribing to service and educate organic waste generators as prescribed in Article 4.</p> <p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p> <p>The penalty tables containing the language the commenter is referring to were deleted from the proposed regulations.</p>
3608	Obermeit, H., City of Berkeley for StopWaste	<p>Measuring Organic Waste -- (1) Take at least a a four one (1) cubic yard samples from each of the organic waste type separated after processing at the operation or facility on that operating day prior to sending to a destination for end-use, recovery, or further processing. MSW contains a wider range of contaminants compared to SSO--includingbatteries, and other hazardous waste items. To ensure that these materials do not reach the compost facility, require more frequent load checks before material reaches composting facility.</p>	<p>CalRecycle staff has noted the comment and will not make any further text changes in response. However, loadchecking for the removal of prohibited waste, such as batteries and other hazardous waste is covered under the existing Section 17409.5.</p>
3609	Obermeit, H., City of Berkeley for StopWaste	<p>Section 17409.5.6 Source Separated Organic Waste Handling (1) Remnant organic material spearated from the gray contrainer collection stream can be combined with organic material removed from the source separated organic waste collection stream one the material from the separated organic waste stream has gone through the measurement protocol described in Section 17409.5.4 Question -- Does this mean that organics from MSW can be added to SSO organics after the SSO organics have been decontaminated? If so, why? Is it because some streams are so contaminated that the limit is approximately the same as MSW? If so, there should be a minimum contamination threshold in the SSO material to allow it to be blended. Otherwise, this measure could inadvertently become a technique to dilute MSW compost to meet contamination limits on finished product, and result in an increase in contaminant-rich material being sold. Add language requiring that this blended product must be sold as MSW compost.</p>	<p>A change to the regulatory text is not necessary. Finished compost still needs to meet the Physical Contamination requirements under Title 14. The purpose of 17409.5.11 is to allow for facilities that receive gray container waste to be allowed to recover organic material after processing it and add it to their organic waste being sent out for recovery once the source separated waste organic and mixed waste organic collection streams have been sampled.</p>
3610	Obermeit, H., City of Berkeley for StopWaste	<p>Loadchecking - Contamination in Source Separated Organic Waste -- One (1) loadcheck shall be conducted for every 500 tons of source separated organic waste received per operating day. Add language reducing frequency of load checks for facilities that are consistently demonstrating low contamination over a period of time. Facilities that are consistently receiving and/or producing a high quality feedstock stream do not need daily monitoring. We recommend consulting with operations about appropriate frequencies (e.g., daily to weekly to every two weeks to monthly?).</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
6346	Okoro, A., City of Norco	<p>Additionally, we remain concerned about critical points that hinder our ability to implement the proposed regulation. As a small rural animal-keeping community with limited financial and human resources, the City of Norco is severely limited in its capacity to implement the provisions of this new legislation. It is to be noted that the City generates significant amount of horse manure which cost residents</p>	<p>A change to the regulatory text is not necessary. Manure is an organic material that leads to methane emissions if landfilled. Other jurisdictions collect other organics and manure together to maximize efficiency.</p>

Comment Number	Received From	Question/Comment	Response(s)
		substantial amount to dispose away from traditional landfills. The requirements of SB 1383 will add costs that could make it potentially very difficult for Norco residents to afford their animal-keeping lifestyle.	
3650	Olmos, T., City of Brea	<p>Section 18985.2(a) - This section requires that each jurisdiction develop a list of edible food recovery services and organizations operating within each jurisdiction and post the information on their website. It seems that many food recovery service providers and organizations work across jurisdictional boundaries including across county boundaries. There may be a significant amount of duplication of effort and dozens of inquiries to the food recovery services and organizations (who are typically short-staffed, understaffed or run by volunteers).</p> <p>The City recommends that Ca/Recycle consider establishing a State-wide database similar to FACIT where food recovery service providers and organizations can register and provide their information once for access to all jurisdictions and generators. This would also allow for a comparable level of information to be requested and provided in these lists (such as what type of food will and will not be accepted). Alternatively, Ca/Recycle may want to consider establishing the generation of the list as a county requirement with the posting of the county-produced list on a jurisdiction's website as a jurisdictional requirement.</p>	<p>Although CalRecycle intends to provide tools and resources prior to 2022 to assist with SB 1383 edible food recovery regulatory compliance, it is critical that jurisdictions develop their own lists of food recovery organizations and services operating in their area.</p> <p>Developing a list that includes food recovery organizations and services that have sufficient capacity and a proven track record of safely and efficiently recovering food for human consumption will help jurisdictions assess their edible food recovery capacity and identify capacity needs that exist. In addition, developing local lists will help commercial edible food generators find organizations and services that are capable of safely handling and distributing recovered food on a regular basis in their area.</p> <p>The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping to feed people in need.</p>
3656	Olmos, T., City of Brea	<p>Section 18995.1(a)(1)(A) - This section states that compliance reviews and route reviews shall be conducted to ensure compliance with the generator requirements outlined in Section 18984.9. It appears that this section is requiring the compliance reviews and route review to entail more than what the definition of these terms require in Sections 18982(a)(9) and 18982(a)(65). Under Section 18984.9(b) it states that commercial businesses shall periodically inspect organic waste containers for contamination and inform employees if containers are contaminated. It is unrealistic to expect that a jurisdictions designee will be monitoring communication between businesses and their employees.</p> <p>The City recommends that Section 18995.1(a)(1)(A) be amended to require that compliance reviews and route reviews ensure compliance with the generator requirements set forth in Section 18984.9. This will align the requirements of Section 18995.1(a)(1)(A) with the definitions specified in Article 1.</p>	<p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
3647	Olmos, T., City of Brea, Berkman, K., City of El Segundo	<p>Section 18984.11(a)(2) - This subsection allows for jurisdictions to waive organics program requirements due to limited physical space. There are certainly locations around the state that will have trouble finding space to accommodate additional service containers and it seems appropriate and necessary to allow for some waiver. However, those waivers could potentially exempt a significant number of generators in older buildings and in urban areas where parking and rentable space are highly valuable. In addition, in nonexclusive service areas, the ability of the hauler to sign off on the space accommodation waiver may result in a "race to the bottom" with some haulers signing off on those waivers in order to undercut competition, avoid providing organics recycling service, and gain business.</p>	<p>Since it is a jurisdiction provided waiver, a jurisdiction can set more stringent criteria in administering the physical space waiver. CalRecycle rejects the assumption that a significant number of generators could demonstrate legitimate physical space constraints. According to jurisdictions with similar space constraints waivers, very few businesses can demonstrate the existences of space constraints that cannot be addressed. There are few instances where a business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers are downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). This waiver intends to allow flexibility for businesses with legitimate and cost-prohibitive space constraints without compromising the state's ability to achieve the organic waste reduction targets.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>The City recommends that Ca/Recycle clarify what constitutes "evidence demonstrating a lack of adequate space." Implementing standards, a process for allowing potential waivers for space constraints, or minimum documentation requirements will encourage a consistent application of this section across jurisdictions, as opposed to leaving interpretation up to the Local Enforcement Agencies.</p>	<p>In regards to levying fees jurisdictions should consult their city or county counsel on how to appropriately structure fees. CalRecycle has not included implementation standards or minimum documentation requirements to allow jurisdictions set appropriate criteria. Jurisdictions, not haulers, administer the waiver, so the physical space waiver will not result in a race to the bottom in nonexclusive service areas. A hauler, licensed architect, or licensed engineer, may provide evidence that a premise has a legitimate space constraint. If a jurisdiction has concerns about haulers in nonexclusive service areas, they can opt not to issue waivers or use a qualified source other than a hauler to demonstrate lack of adequate space for separate organic waste containers.</p>
3649	Olmos, T., City of Brea, Berkman, K., City of El Segundo	<p>Section 18985.(f)- This section requires public education materials in various languages if more than 5% of the jurisdiction's population is identified as a "limited English speaking household," or as "linguistically isolated" by the U.S Census Bureau. This can be burdensome, particularly if a community has several different languages spoken among its population. The City recommends that Ca/Recycle consider increasing the percentage threshold to reduce the cost associated with preparation of public education materials in multiple languages, and/or allow for the compliance to be accomplished with a short statement (in the applicable language) that directs the non-English speaking person to the jurisdiction's website for materials in other languages, or allows for graphic-rich public education materials as a possible substitute.</p>	<p>Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.</p>
3653	Olmos, T., City of Brea, Berkman, K., City of El Segundo	<p>Section 18993.(f) - The provisions of this section require that jurisdictions procure a minimum amount of recycled organic waste products (compost and renewable transportation fuel) annually, or contract with direct service providers to procure these materials. The City believes that the requirement to procure recycled organic waste products is limited in scope as to the types of products that may be procured. The City recommends that CalRecycle add ground cover, mulch, soil amendments, and an allowance for additional recycled organic waste products (as approved by Ca/Recycle) to account for future technological and product developments. Soil amendments are considered a reduction in landfill disposal per Section 18983.(b)(5) and therefore should also be an acceptable form of recovered organic waste for procurement to close the loop. Furthermore, it would be beneficial for Ca/Recycle to post a list of approved recycled organic waste products on their website so that other jurisdictions are aware of additional procurement opportunities. Additionally, it may be useful for Ca/Recycle to have a vendor web portal that allows jurisdictions to procure recovered organic waste products from other jurisdictions or companies who output more products than they can currently utilize.</p>	<p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. Regarding soil amendments and adding an option for approval of "future technological and product developments", CalRecycle disagrees due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of "soil amendments" and "future technological and product development" raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. CalRecycle has also added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. If soil amendments meet that criteria, they may be considered compost. Regarding a "vendor web portal", once the regulations are finalized CalRecycle will develop tools to aid jurisdictions with procurement-related questions.</p>
3660	Olmos, T., City of Brea, Berkman, K., City of El Segundo	<p>Section 18995.2 - SB 1383 currently requires a voluminous centralized repository for all information related to SB 1383 programs, which entails over 40 units of observations and potentially millions of data points. Subsection 14.2 (c) requires</p>	<p>CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>that the jurisdiction shall provide access to the implementation record within one business day of request. The City believes that this timeframe is unreasonable as City staff may have other priorities or scheduled time off, and it is unfair to jurisdictions to expect that they prioritize CalRecycle over other responsibilities, particularly in rural or smaller jurisdictions that may have limited staff and budget. The City recommends that the timeframe for providing or reviewing the implementation record be changed for consistency with The California Public Records Act, which indicates an agency must provide the records within a reasonable period of time and allows a ten-day period for response. This allows City staff flexibility to tend to their other responsibilities. Alternatively, Ca/Recycle could require an expedited timeframe only for those cities who have been found to be in violation of the implementation record requirements.</p>	
6023	Orsi, J., Citizen - Oakland	<p>Worried that the regs will pressure cities to enter into contracts with corporate waste management haulers. Haulers have pressured cities like Oakland to create legal monopolies, making most forms of small-scale composting impossible in Oakland. Please make rules that protect the right of the people in our communities to share green material and food scraps to create rich compost and healthy soil. Do not allow cities to comply with 1383 by entering into exclusive franchise agreements.</p>	<p>No change to the regulatory text is necessary. The regulations do not prohibit community. In addition, CalRecycle doesn't have authority to directly regulate franchise agreements.</p>
4396	Orsi, Janelle, Sustainable Economies Law Center; California Farm Link; Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco Permaculture Guild; Multinational Exchange for S	<p>Already, most CA cities with city-wide organics hauling programs have created challenging – even insurmountable – barriers to the transport of organic materials. That, alone, can destroy an entire ecosystem of solutions.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4397	Orsi, Janelle, Sustainable Economies Law Center; California Farm Link;	<p>CalRecycle, you have both the mandate and the power to implement rules that protect and encourage small-scale and diverse composting. Without such protections, 1383 will create a massive environmental setback for California. The risk is: In the rush to comply with 1383 rules, cities will be pressured by large-scale hauling companies to grant exclusive franchise agreements. Exclusive</p>	<p>This comment proposes to add the definitions of 'Community Benefit Composting' and 'Micro-composting' to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section</p>

Comment Number	Received From	Question/Comment	Response(s)
	Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco Permaculture Guild; Multinational Exchange for S	agreements result in rules that prohibit or create barriers for other people wishing to transport organics, cutting off countless composting solutions at their source. The 1383 rules need to create strong protections for small-scale and community-based composting and prevent exclusive agreements from disrupting the ecosystem of solutions.	17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards. No change to the regulatory text is necessary to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste. Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
4398	Orsi, Janelle, Sustainable Economies Law Center; California Farm Link; Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco Permaculture Guild; Multinational Exchange for S	To meet state landfill diversion goals and reduce short-lived climate pollutants under SB 1383, CalRecycle estimates that California will need 75 to 100 new composting facilities each processing an average of 60,000 tons of organic matter per year. Many regulators and industry leaders have expressed doubt that this is possible, given the high costs and long time it takes to site and permit a compost facilities of this size. By contrast, small-scale compost sites can be established quickly, and if we enable them in every neighborhood, we could more quickly scale to meet landfill diversion goals and reduce methane emissions.	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
4399	Orsi, Janelle, Sustainable Economies Law Center; California Farm Link; Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco	Add this definition to Section 18982 - "Micro-Composting" Any activity that composts green material, agricultural material, food material, agricultural by-product material, herbivore manure, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 20 cubic yards and 200 square feet.	The terms community benefit composting and supplemental on-site compost are not used in the regulation. This comment proposes to add the definitions of 'Community Benefit Composting' and 'Micro-composting' to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards.

Comment Number	Received From	Question/Comment	Response(s)
	Permaculture Guild; Multinational Exchange for S		
4400	Orsi, Janelle, Sustainable Economies Law Center; California Farm Link; Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco Permaculture Guild; Multinational Exchange for S	Add this definition to Section 18982 - "Community Benefit Composting" Composting conducted primarily for advancing educational, charitable, scientific, social welfare, or environmental purposes by a nonprofit public benefit corporation under CA Corp. Code 5060, a nonprofit mutual benefit corporation under CA Corp. Code 5059, a nonprofit association under CA Corp Code 18020, or a public or governmental agency.	The terms community benefit composting and supplemental on-site compost are not used in the regulation. This comment proposes to add the definitions of 'Community Benefit Composting' and 'Micro-composting' to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards.
4401	Orsi, Janelle, Sustainable Economies Law Center; California Farm Link; Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco Permaculture Guild; Multinational Exchange for S	Add this definition to Section 18982 - "Supplemented On-Site Composting" Composting of organic materials generated on-site, where up to 30% of feedstock may include green material, agricultural material, agricultural by-product material, herbivore manure, food material, and vegetative food material sourced from off-site in order to supplement and enrich the compost.	The terms community benefit composting and supplemental on-site compost are not used in the regulation. This comment proposes to add the definitions of 'Community Benefit Composting' and 'Micro-composting' to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards.
4402	Orsi, Janelle, Sustainable Economies Law Center; California	Amend §18988.1 to add section (d): Jurisdiction Approval of Haulers and Self-Haulers [...]	No change to the regulatory text is necessary to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste.

Comment Number	Received From	Question/Comment	Response(s)
	Farm Link; Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco Permaculture Guild; Multinational Exchange for S	(d) A jurisdiction shall not create unreasonable barriers to or prohibitions against the transport of organic material to Micro-Composting sites, Community Benefit Composting sites, or Supplemented On-Site Composting sites.	
4403	Orsi, Janelle, Sustainable Economies Law Center; California Farm Link; Northern California Recycling Ass'n; Berkeley Climate Action Coalition; DelNorte and Tribal Lands Community Food Council; San Francisco Permaculture Guild; Multinational Exchange for S	Amend the excluded activity in §17855(a)(1) to say: (1) An activity is excluded if it takes place on an agricultural site and produces compost for use on that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the composting activity. Feedstock may include green material, agricultural material, agricultural by-product material, herbivore manure, food material, and vegetative food material sourced from off-site in order to supplement and enrich the compost. No more than an incidental amount of up to 1,000 cubic yards of compost product may be given away or sold annually. Further background: This is to address the problem that many farms need to bring material from off-site in order to supplement the composting of on-site material. We've talked to farms and farm advocacy groups that have told us that CalRecycle's compost facility permitting rules make this difficult for them by restricting the introduction of material from off-site.	Comment noted. Section 17855(a)(1)) is an existing regulation and describes an excluded activity. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking.
9010	Oseguera, A., Waste Management	(33) "High diversion organic waste processing facility" means a facility that is in compliance with the reporting requirements of Section 18815.5(d) of this division and meets or exceeds 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) of this division for organic waste received from the "Mixed Waste Organic Waste Collection Stream" as defined in Section 7 17402 (a)(11.5) of this division. Please provide Section 18815.5(d) and (e) for review. Based on our review, this Section does not exist in California Code of Regulations.	Section 18815.5(d) and (e) are amendments to Title 14, Division 7, Chapter 9, Article 9.25 regulations. These regulations went into effect March 5, 2019.
9011	Oseguera, A., Waste Management	(51) "Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and	CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of

Comment Number	Received From	Question/Comment	Response(s)
		panels, corrugated boxes, tissue, and toweling. Please remove "building insulations and panels" as these items are not acceptable as paper products in most situations.	options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.
9012	Oseguera, A., Waste Management	(52.5) "Permanent" means, in the context of the determination of processes or technologies that constitute a reduction in landfill disposal, that greenhouse gas emissions reductions are not reversible, or when these emissions reductions may be reversible, that mechanisms are in place to replace any reversed greenhouse gas emissions reductions to ensure that all reductions endure for at least 100 years. Please clarify what would constitute reversible and non-reversible GHG emissions.	Greenhouse gas reductions and removals can be "reversed" if the stored carbon associated with them is released (back) to the atmosphere. Many biological and non- biological agents, both natural and human-induced, can cause reversals. Some of these agents cannot completely be controlled and may therefore result in an unintentional reversal, such as natural agents like fire, insects, and wind. Other agents can be controlled, such as the human activities like land conversion and over-harvesting.
9013	Oseguera, A., Waste Management	(70) "Subsequent violation" means a violation of this chapter by a jurisdiction or entity that has previously been subject to an enforcement action for a violation of this chapter. For purposes of this chapter, a subsequent violation may only be found when it has occurred within five years of the violation that has already been the subject of an enforcement action. The regulations appear to establish a penalty structure with "Subsequent violations" to address chronic and recalcitrant violators (i.e., where there is a pattern of neglect or disregard with respect to the regulations). The five-year period in the definition, however, results in potentially excessive fines and penalties being applied to operators/owners who have a very good compliance record and yet will be treated like a chronic/recalcitrant violator where there is a single violation in year one and then another in year 5. We recommend that the period be changed to a 12-month period so that the regulation appropriately penalizes chronic/recalcitrant violators while fairly and equitably treating good-faith operators/owners.	CalRecycle has revised section 18995.4 in response to this comment. The definition for "subsequent violation" has been removed and for a "subsequent violation" has been changed to "subsequent offense" and the timeframe has been revised to one year to align with the provisions of the Government Code. SB 1383 authorized jurisdictions to impose penalties but did not set penalty levels. The penalty requirements default to local penalty requirements in Government Code Sections 53069.4, 25132 and 36900. The timing for first, second and third and subsequent offenses of a violation of the same ordinance is one year. CalRecycle does not have discretion to alter this timing.
9014	Oseguera, A., Waste Management	(75) "Violation" means a lack of compliance with a requirement of this chapter or local ordinance(s) adopted pursuant to this chapter. The term "violation" is not ordinarily defined except as to classes or degrees of violations (i.e., minor violation vs Class I violation). Here the definition could be interpreted to mean any de minimis deviation without regard for the gravity of the violation or the potential environmental harm but potentially imposing a similar penalty. Furthermore, the definition is not necessary and creates potential confusion as Article 16 sets forth in detail treatment of potential violations. Please consider deleting the definition or amending to "lack of substantial compliance".	CalRecycle agrees that the originally proposed definition of violation was problematic and removed the definition from the final regulator text. An entity is either in violation or not. The issues of gravity and potential harm of the violation are factors in determining how to address the violation, not whether or not a violation has occurred.
9015	Oseguera, A., Waste Management	(b) Organic waste sent to one of the following facilities, operations, or used for one of the following activities, and not subsequently sent for landfill disposal shall be deemed to constitute a reduction of landfill disposal. WM requests that the language in Section 18983.1(b) be changed to the following: Organic Waste sent to one of the following facilities, operations, or used for one of the following activities shall be deemed to constitute a reduction of landfill disposal.	The purpose of section 18983.1(b) 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

Comment Number	Received From	Question/Comment	Response(s)
			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 if the material is subsequently disposed.
9016	Oseguera, A., Waste Management	(a) Emergency Processing Facility Temporary Equipment or Operational Failure Waivers: (1) If the facility processing a jurisdiction’s organic waste notifies the jurisdiction that operational restrictions have been imposed upon it by a regulatory agency or that a temporary equipment or operational failure will prevent the facility from processing or recovering organic waste, the jurisdiction may allow the organic waste stream transported to that facility to be deposited in a landfill or landfills for up to 90 days from the date of the restriction or failure. WM recommends adding maintenance and retro-fit activities as events which would qualify for a request waiver.	CalRecycle does not concur with the addition of a new waiver because planned and routine maintenance should already be accounted for and the material should not be disposed.
9017	Oseguera, A., Waste Management	(a) A hauler providing residential, commercial, or industrial organic waste collection services shall comply with all of the following: (1) 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. WM recommends adding the ability to transport to transfer station. The language is too limiting considering the lack of infrastructure. This would only allow use of facilities that have organics processing or recovery as defined in Article 2.	Article 3 allows the contents of containers to be initially transported to a consolidation site.
9018	Oseguera, A., Waste Management	(2) The generator shall haul source separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source separated organic waste. WM recommends adding the ability to transport to transfer station. The language is too limiting considering the lack of infrastructure. This would only allow use of facilities that have organics processing or recovery.	Article 3 allows the contents of containers to be initially transported to a consolidation site.
9019	Oseguera, A., Waste Management	(b) A jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that do any of the following: (4) Require a generator or a hauler to transport organic waste to a solid waste facility or operation that does not process or recover organic waste. This language should be removed as it does not consider transfer facilities and has the potential to create conflicts with franchise agreements and or limit recovery. "Solid waste facility" is defined as follows in Section 40194 of the PRC: "Solid waste facility" includes a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, and a disposal facility." This is too limiting considering the lack of infrastructure. This would allow use of facilities that have organics processing or recovery.	A change to the regulatory text is not necessary. Section 189901 (c) (4) provides that this section does not prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery. Nothing in the regulations prohibits facilities from contracting with various parties, including jurisdictions, for capacity within their facility. What the regulations do prohibit is a jurisdiction adopting an ordinance or similar restriction to legally prohibit material from other jurisdictions from going to facilities within its boundaries simply because of where the material originated. This is consistent with existing case-law. A change to the regulatory text is not necessary. This section does not limit franchise agreements or limit recovery. The regulations in Article 3 provide jurisdictions with the option of providing single, two, or three container organic waste collection services. The single container organic waste bin must go to a facility that recovers organic waste. This provision means that a jurisdiction that provides a single container organic waste collection service cannot send its waste to a facility that does not process organic waste. If this section would impact franchise agreements, that franchise agreement would be in conflict with the single, two, or three container organic waste collection services requirements in these regulations. This section is necessary to

Comment Number	Received From	Question/Comment	Response(s)
			ensure that 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.
9020	Oseguera, A., Waste Management	(5) Require a generator to use an organic waste collection service or combination of services that do not recover at least the same types of organic waste recovered by a service the generator previously had in place. This language should be removed as it has the potential to create conflicts with franchise agreements. For example, if a municipality switches from one hauling company to another, and the second hauling company uses a processing facility that excludes a certain type of organic waste (that had be processed by the previous hauler), but achieves the same or higher overall diversion, residents of the municipality would seemingly have the option, under this language, to not use the exclusive hauler with which the municipality contracted. This would frustrate the purpose of exclusive franchise agreements.	A change to the regulatory text is not necessary. Earlier versions of the regulatory text prohibited organic waste from being taken to a facility with a lower recovery rate. That section of the regulatory text was removed to ensure that all types of material would be recovered. The statutory constraints of SB 1383 require CalRecycle to take a prescriptive approach to the design of the regulations. Absent the authority to set a jurisdiction-specific recycling target or to ban the landfill disposal of organic waste, CalRecycle is required to develop regulations that require jurisdictions and other entities to implement specific programs and meet minimum standards necessary to achieve the state's targets. The prescriptive approach necessitated by the statute is reflected in the design of the entire set of 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 regulations.
9021	Oseguera, A., Waste Management	(f) For the purposes of this article, the recovered organic waste products that must be procured are: (1) Compost. (2) Renewable transportation fuel. WM recommends the expansion of recovered organic waste products that must be procured to include mulch and other soil amendments. Municipal customers likely use mulch, bark and other soil amendments in addition to compost.	Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
9022	Oseguera, A., Waste Management	(a) Upon presentation of proper credentials, an authorized Department employee or agent shall be allowed to enter an entity's premises during normal working hours to conduct inspections and investigations in order to examine organic waste recovery activities, edible food recovery activities, and records pertaining to the entity in order to determine compliance with this chapter. Methods may include, but are not limited to, allowing the review or copying, electronically or through mechanical methods (i.e., photocopying) of any paper, electronic, or other records required by this chapter, such as invoices, memoranda, books, papers, or records .The review or copying of any paper, electronic, or other records required by this chapter, such as invoices, memoranda, books, papers or records should be an activity scheduled in advance as requested by an authorized Department employee or agent and based on availability of authorized entity employees. Also, this Section should contain a provision allowing for the assertion of confidentiality and protections for materials that are trade-secret and business proprietary and not subject to public disclosure under Government Code Section 6250 et seq.	A change to the regulatory text is not necessary. Section 18994.6 allows the Department access to the premises of an entity subject to the Chapter during normal working hours to conduct inspections and investigations. Section 18996.1 does state that the Department shall notify the jurisdiction prior to conducting a compliance evaluation, which may include inspections, compliance reviews and route reviews. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction and the proposed regulations were modified to reflect that.
9023	Oseguera, A., Waste Management	(b) If an entity has been found in violation, the Department shall: (1) For a first violation: (A) Issue a Notice of Violation (NOV) requiring compliance within 60 days.	CalRecycle has revised Section 18995.4 and Section 18996.9 in response to this comment. The changes will clarify the differences between the first, second, third and subsequent violations and to clarify a subsequent offense is a commencement of an action against the same person or entity for a violation of the same subsection of this chapter.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(B) If the violation continues after the NOV compliance date, the Department shall issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p> <p>(C) If the violation continues after the NOTC compliance deadline of 30 days, the Department shall commence action to impose a penalty on the entity no later than 90 days after the issuance of the NOTC.</p> <p>(2) For a second violation and all subsequent violations:</p> <p>(A) Issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p> <p>(B) If the violation continues after the NOTC compliance deadline, the Department shall commence action to impose a penalty on the entity no later than 90 days after its determination of the violation. The regulation appears to provide a thoughtful and fair process for assuring compliance with the regulations and providing appropriate notice and opportunity to cure based on whether the violation is a first or second violation such that a first violation allows for a 3-step process and the second violation skips the requirement for NOV and goes directly to the NOTC. Please confirm that "first violation" and "second violation" mean violation of the same section.</p>	
9024	Oseguera, A., Waste Management	<p>(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b). A hauler providing residential, commercial or industrial organic waste collection service fails to transport organic waste to a facility, operation, activity, or property that recovers organic waste, as defined in Article 2. Clarification is required to identify that "a hauler" means a hauler operating in a particular jurisdiction. Otherwise, a violation by an entity operating somewhere else in the State could count toward a violation of that entity in another jurisdiction. The same change should be made for the following three penalty amounts, as well as the violation relating to "A hauler providing residential, commercial, or industrial organic waste collection service fails to transport organic waste to a facility, operation, activity, or property that recovers organic waste, as defined in Article 2."</p>	<p>A change to the regulatory text is not necessary. Section 18981.2 states that a jurisdiction shall adopt enforceable ordinance(s), or similar mechanisms consistent with the requirements of this chapter on entities subject to the jurisdiction's authority. A jurisdiction does not have authority to enforce on entities/activities outside their authority or jurisdiction.</p>
9025	Oseguera, A., Waste Management	<p>(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b). A hauler providing residential, commercial or industrial organic waste collection service fails to transport organic waste to a facility, operation, activity, or property that recovers organic waste, as defined in Article 2. Delete "or stricter than those" and insert "to" after "equivalent" because the language allowing a jurisdiction to impose stricter penalties would result in unfair and unequal penalties assessed across the State for the same violation. The potential penalties across the State should be uniform and consistent.</p>	<p>CalRecycle has revised section 18997.1 in response to this comment. The reference to imposing penalties that are "equivalent or stricter" than the amount listed in section 18997.2 has been deleted. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900, which set the maximum penalties that local agencies may impose.</p>

Comment Number	Received From	Question/Comment	Response(s)
		The proposed language would result in unfair application across the State for the same violation and potentially forum-shopping meaning development of infrastructure in jurisdictions where penalties are lower than another jurisdiction.	
9026	Oseguera, A., Waste Management	(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b). A hauler providing residential, commercial or industrial organic waste collection service fails to transport organic waste to a facility, operation, activity, or property that recovers organic waste, as defined in Article 2. Penalties imposed on a "per day" basis will result in unconstitutional excessive fines and penalties and should be deleted except where the daily accrual relates to the actual harm caused by the violation rather than a blanket "per day" assessment with no relationship to the gravity of the violation or the resulting harm.	The initial language in Section 18997.2 regarding administrative civil penalties imposed by local jurisdictions was revised to be consistent with Government Code Sections 25132, 36900, and 53069.4 in response to comments.
9027	Oseguera, A., Waste Management	17409.5.2 (a) The operator of an attended operation or facility that accepts a mixed waste organic collection stream shall, each operating day, measure the amount by weight of organic waste present in the residuals removed from the mixed waste organic collection stream after processing that is sent to disposal. (b) The operator shall comply with subdivision (a) by using the following protocol: (1) Take at least one (1) cubic yard sample of the residuals removed from mixed waste organic collection stream at the operation or facility on that operating day prior to sending to disposal. Each sample shall be; (A) Representative of a typical operating day. WM recommends a minimum auditing frequency of monthly. Daily auditing places an unrealistic burden on the operator regarding auditing and recordkeeping. INADVERT USE OF 9027 TWICE	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period. Using 10 consecutive days instead of daily 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 get the needed data. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.
9029	Oseguera, A., Waste Management	17409.5.4 (a) The operator of an attended operation or facility that accepts source separated organic waste shall, each operating day, measure the amount by weight of organic waste separated from the source separated organic waste collection stream after processing for end-use, recovery or further processing. (b) The operator shall comply with subdivision (a) by using the following protocol: (1) Take at least a one (1) cubic yard sample from each of the organic waste type separated after processing at the operation or facility on that operating day prior to sending to a destination for end-use, recovery, or further processing. Each sample shall be: (A) Representative of a typical operating day; WM recommends a minimum auditing frequency of monthly. Daily auditing places an unrealistic burden on the operator regarding auditing and recordkeeping.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.

Comment Number	Received From	Question/Comment	Response(s)
			<p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
9030	Oseguera, A., Waste Management	<p>17409.5.5 (a) The operator of an attended operation or facility that accepts a source separated organic waste shall, each operating day, measure the amount of organic waste by weight present in the residuals removed from the source separated organic waste collection stream after processing sent to disposal.</p> <p>(b) The operator shall comply with subdivision (a) by using the following protocol:</p> <p>(1) Take at least a one (1) cubic yard sample of the residuals removed from source separated organic waste collection stream at the operation or facility on that operating day prior to sending to disposal. Each sample shall be;</p> <p>(A) Representative of a typical operating day. WM recommends a minimum auditing frequency of monthly. Daily auditing places an unrealistic burden on the operator regarding auditing and recordkeeping.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
9031	Oseguera, A., Waste Management	<p>17409.5.7 (a) The operator of an attended operation or facility that accepts source separated organics waste shall perform loadchecking to identify the amount of visible contamination in source separated organic waste according to the following schedule:</p> <p>(1) One (1) loadcheck shall be conducted for every 500 tons of source separated organic waste received per operating day. If the operator receives less than 500 tons for the operating day, a minimum of two (2) loadchecks shall be conducted for that operating day.</p> <p>(2) At least one random loadcheck per day for each source sector as defined in Section 18815.2(a)(51). WM recommends a minimum load inspection frequency of weekly. Daily load inspections based on inbound volume and random loadcheck for each source sector places an unrealistic burden on the operator regarding recordkeeping and reporting.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
9032	Oseguera, A., Waste Management	<p>17409.5.8(a) On and after January 1, 2022, a transfer/processing facility or operation shall send organic waste recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream with no more than 10 percent of incompatible material by weight to the destination it is being sent per operating day. Section 17409.5.8 should be removed because it will likely result in negative unforeseen consequences. For additional processing of organic waste by a second facility, limiting the level of incompatible material to less than 10% or to a facility/process that achieves less than 10% organic</p>	<p>CalRecycle has revised this section in response to comments. The section was revised to phase in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal. The phase in will allow entities time to plan and make any adjustments in order to comply with the revised acceptable limits of 20% on and after 2022 and 10% on and after 2024. SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. In order to achieve these targets, regulatory limitations for processing organic waste must be implemented.</p>

Comment Number	Received From	Question/Comment	Response(s)
		waste. The decision to process organic waste in the residual unnecessarily restricts full recovery of organic waste. The decision to process organic waste should be based on contractual and business purposes, not regulatory limitations.	
9033	Oseguera, A., Waste Management	Section 20700.5 (a) Compacted earthen material at least 36 inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 30 months to control methane emissions. (1) The EA may approve, with concurrence by the Department, an alternative long-term intermediate cover if the operator demonstrates that the alternative is equivalent to 36 inches of earthen material. (b) For waste classification, composition, and liquid percolation requirements of intermediate cover, refer to the SWRCB requirements set forth in 27 CCR Section 20705. Please publish the performance criteria for the use of 36 inches of earthen material that the EA will use to evaluate alternative long-term intermediate cover.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
9034	Oseguera, A., Waste Management	20750.1(b) For the purposes of this section “organic waste recovery activities” means activities that divert organic waste from disposal to constitute a reduction of landfill disposal of organic waste as defined in Article 2 of Chapter 12 of Division 7 of Title 14 of the California Code of Regulations (commencing with Section 18983), either on-site or transport to another site where those activities occur. Please clarify if this section is specific to Source Separated Organics.	Comment noted. This section is for all organic waste received at a Landfill. It does not just pertain to Source Separated Organics.
9035	Oseguera, A., Waste Management	Section 21570(f) (13) For new or expanded solid waste facilities, provide evidence that the operator held a public meeting with any affected groups or disadvantaged communities within 180 days prior to submittal of the permit application package. (A) Provide copies (hard copy or electronic) of notices distributed to the affected groups or disadvantaged communities. (B) Provide a summary of the comments received at the public meeting and, where applicable, responses to public comments and any other steps taken by the applicant relative to those comments. (C) For the purposes of this section disadvantaged communities means communities identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code. §21570 (13) should be deleted. Requiring a public meeting 180 days prior to the submittal of the permit application will only prolong the permitting process and it duplicative to §21660.2	CalRecycle has revised this section in response to comments. The section was modified to clarify that the operators of a new or expanded facility hold a public meeting with any affected disadvantage communities 180 days of submitting a permit application package. This change in this section is necessary to clarify that the 180 days is not an extension to the already established time in regulations for a permit application package but part of it. The purpose of this section is to ensure that if there are any affected disadvantage communities, they are provided an opportunity to attend the meeting and comment on the project. Section 21660.2 is an Enforcement Agency’s (EA) requirement. EA’s are required to hold informational meetings for new and revised Solid Waste Facility Permits. This is different than the operator’s requirements under Section 21570(f)(13), which has been renumbered to Subdivision (g).
9036	Oseguera, A., Waste Management	Section 21660.2 (c) The informational meeting shall meet the following criteria: (1) The meeting shall be held in a suitable location not more than one (1) mile from the facility that is the subject of the meeting and from any disadvantaged communities affected; if no suitable and available location exists within one (1) mile of the facility and from any disadvantaged communities affected, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility disadvantaged communities as reasonably practical. (A) The EA shall identify disadvantaged communities in a manner that meets or exceeds the methods of the identification tools developed by the California	The informational meeting requirements requires a single meeting to be held within 60 days of the Enforcement Agency (EA) receiving a permit application package for a new or revised solid waste facility permit. This specific requirement in the regulation is part of the existing regulations, Section 21660.2(b). The requirements under Subdivision (c), which requires the meeting to be held in a “reasonably practical” location if no location exists within one mile of the facility, is also existing language. The proposed changes under SB 1383 rulemaking, only added language to included “affected disadvantaged communities” as an entity to consider when determining a location for the meeting. This is necessary to specify that the informal meeting required under this section take

Comment Number	Received From	Question/Comment	Response(s)
		<p>Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.</p> <p>(2) The meeting shall be held on a day and at a time that the EA determines will enable attendance by residents, including those of affected disadvantaged communities, living in the vicinity of the facility that is the subject of the meeting.</p> <p>(3) EAs may shall undertake additional measures to increase public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the meeting, including which may include, but not be limited to, additional posting at the facility entrance, noticing beyond 300 feet one (1) mile if the nearest residence or business is not within 300 feet one (1) mile of the site, posting in a local newspaper of general circulation, and multilingual notice and translation and, multiple meeting dates, times and locations. Subsection (c) is unclear on whether a single meeting is required or whether multiple meetings are required. Based on the title of the section and the other language, it appears that a single meeting is required. Please clarify that the informational meeting requirement is a single meeting within one mile from the facility that is the subject of the meeting. Please consider deleting the language requiring a meeting outside of the one-mile area because it will only lead to litigation and ambiguity to determine what is "reasonably practical"; furthermore, a one-mile distance from the facility would reliably and adequately capture potential impacts from the proposed facility.</p>	<p>into consideration affected disadvantage communities in order to allow them an opportunity to attend and provide comments.</p> <p>CalRecycle has revised Section 21600.2 (c) in response to comments. The "one (1) mile" requirement in Subsection (c)(3) has been deleted and "shall" has been changed to "may," reverting back to the existing regulatory language.</p>
6228	<p>Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Michael, L., City of Rancho Cucamonga; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; Ni</p>	<p>Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
6229	<p>Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Michael, L., City of</p>	<p>Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Belmont and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade"</p>	<p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The</p>

Comment Number	Received From	Question/Comment	Response(s)
	Rancho Cucamonga; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; Ni	proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.	legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6230	Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Michael, L., City of Rancho Cucamonga; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; Ni	Enforcement: These regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.	Comment noted, the comment does not recommend a regulatory change.
6231	Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Michael, L., City of Rancho Cucamonga; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; Ni	Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.

Comment Number	Received From	Question/Comment	Response(s)
6232	Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Michael, L., City of Rancho Cucamonga; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; Ni	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.	A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”. CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved. However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
6233	Oskoui, A., City of Belmont; Pinon, F., City of Reedley; Michael, L., City of Rancho Cucamonga; Weber, M., City of Palm Desert; Evans-Fudem, E., League of Cities; Parker, A., City of Hemet; Steuer, M., City of Irvine; Huffaker, M., City of Watsonville; Ni	The City of Belmont further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Belmont requests that the procurement regulations be addressed in a separate regulatory proceeding.	CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383. According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.

Comment Number	Received From	Question/Comment	Response(s)
			<p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>Regarding "additional costs," a change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "additional costs".</p> <p>CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p>
8	Oster, R, Compology	<p>As a best practice for content assessment, remote monitoring is growing rapidly and is completely consistent with the regulatory package. Remote content monitoring and assessment empower municipalities with the responsibility of enforcing SB 1383 with automated information and reporting to monitor generators to ensure their compliance with the law, provide feedback to change behavior and use of their containers, assist their hauling partners, and levy fees and penalties, as needed. Haulers can also receive necessary information ahead of collection day to make collection adjustments to pick up containers with the right truck (depending on contents) and have documentation about contents automatically so that generators can pay the true cost of service. Compology acknowledges CalRecycle's attempt with the regulatory package to allow and support remote monitoring. Compology applauds CalRecycle for considering the future of innovation in the industry around the use of cameras in bins and on trucks for assessing container contents.</p>	<p>Thank you for the comment. There is nothing in the regulations that prohibits organic waste generators from monitoring their container contents, remotely or otherwise. And CalRecycle finds it unnecessary for the regulations to specifically state that organic generators can do so. Additionally designees are not required to inspect a set minimum number of individual generators on a monthly basis. The regulations do not prohibit organic waste generators from monitoring their container contents, remotely or otherwise. And it is unnecessary for the regulations to specifically state that organic generators can do so. It is unclear what the commenter means about such generators being 'protected by doing the right thing.'</p>
9	Oster, R, Compology	<p>While there is a cost for remote monitoring, it is far less than the costs already built into the system for inefficient use of driver time, waste auditors and scouts, customer service documentation, and the true cost of managing contaminated streams. Historically communities have used "designees", independent of the haulers, to conduct audits, enforce ordinances and provide feedback to enhance recycling. Effectively, "monitoring" is already taking place across the state, albeit manually. We are very supportive of 1383 specifically allowing for Designees to conduct the monitoring and auditing mandated by 1383.</p>	<p>There is nothing in the regulations that prohibits organic waste generators from monitoring their container contents, remotely or otherwise. And CalRecycle finds it unnecessary for the regulations to specifically state that organic generators can do so. Additionally designees are not required to inspect a set minimum number of individual generators on a monthly basis. The regulations do not prohibit organic waste generators from monitoring their container contents, remotely or otherwise. And it is unnecessary for the regulations to specifically state that organic generators can do so. It is unclear what the commenter means about such generators being 'protected by doing the right thing.'</p>
10	Oster, R, Compology	<p>We do request some clarification on Section 18984.5. Container Contamination Minimization. In Compology's experience, 'monitoring' and 'monitoring to minimize' contamination are 2 distinct and separate activities. We'd like to have further clarification on the distinction between simply monitoring and 'monitoring to</p>	<p>The term "monitor to minimize" is not used in the regulation. Jurisdictions are required to monitor containers so they can identify contaminants and take actions to reduce and minimize contamination. The specific actions required to minimize contamination when it is identified are specifically laid out in Section 18984.5 further definition is not necessary.</p>

Comment Number	Received From	Question/Comment	Response(s)
		minimize' by perhaps defining 'monitoring to minimize' in the definitions section of the regulation.	
4140	Pane J, Athens Services	<p>1. Operational Issues, Route Review/Container Contamination Minimization Frequency of Reporting, Inspections and audits of residuals and contamination are excessive and cannot be justified from a cost/GHG benefit perspective. Costs of reporting should be balanced with operational expense and net environmental benefits offset by the costs to implement. Recommendation: Eliminate AB 1826 duplication and conflicts, as SLCP/1383 regulation requirements are phased-in. Proposal: The industry is proposing the following fix: replacing the language "randomly selected containers in a manner that results in all collection routes being reviewed quarterly," with "statistically significant sample, based on visible contamination in load checking samples that results in collection routes being reviewed annually".</p>	Thank you for the comment. CalRecycle modified the regulations to be annual. For clarity, the regulations allow the jurisdictions to determine random selection, which is the least costly and burdensome approach compared to requiring statistically significant sampling.
4141	Pane J, Athens Services	<p>2. Load-checking Contamination CalRecycle has alluded to a new methodology they will offer in the next iteration of the regulatory text that will reduce the load-checking frequency. Proposal: Load-checking every 500 tons of material coming into a facility is onerous and most loads will have some form of visible contamination. Random sampling should be sufficient.</p>	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
4142	Pane J, Athens Services	<p>3. Organic Waste Recovery Sampling The excessive nature of the proposed sampling of outbound organics and material being sent to the landfill – one cubic yard per day of each material type – is burdensome and unnecessary to achieve the GHG targets. Proposal: A protocol can and should be developed to achieve CalRecycle's goals without the negative impacts daily sampling is certain to cause. As is the case with load checking, the industry needs a more flexible and individually tailored mechanism to achieve the balance that will work to achieve the GHG targets. Allow facilities to create protocols appropriate to their facilities and business.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>

Comment Number	Received From	Question/Comment	Response(s)
4143	Pane J, Athens Services	<p>4. Container Requirements</p> <p>Some in the industry want to be able to use any containers in stock and purchased prior to 2022 to replace old containers before obligating the use of a new container that meets the regulatory color and labeling requirements. Requiring specific colors for collection bins and labeling all existing containers by 2025 will be costly.</p> <p>Proposal: Container replacement should be allowed with new contracts, new line of service change or by 2034. This would ease the cost impact but not diminish GHG reduction benefits. There is also a question as to whether commercial containers should be obligated to meet the labeling requirements, when most of the separation in these cases occurs within the commercial buildings of the generator.</p>	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. The regulations allow using existing containers in stock. Also, the regulations have specific requirements for commercial businesses regarding container color or signage.</p>
4144	Pane J, Athens Services	<p>5. Organic Waste Definition</p> <p>The definition includes paper products, which is further defined as “paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling.”</p> <p>Proposal: Many of these material types are not accepted in recycling streams and confuse the issue about what is considered organic for the purposes of contamination sampling. A definitional change is needed.</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>“Non-compostable paper includes, but is not limited, to paper that is coated in a plastic material that will not breakdown in the composting process.” It is clear from how the term is used that “breakdown” means to fully breakdown from the original material into compost. There is no degree or “extent” of breakdown to define. If a material does not breakdown into compost during the composting process it is non-compostable. Non-compostable paper should not be collected for composting and put into the composting process.</p> <p>However; the regulation is not limited to requiring the recovery of “compostable” organic waste composting is not the only method of recovery, and just because a material is not “readily compostable” does not mean that it is not organic waste, and not a part of the material the state must reduce from disposal and include in the regulations. There are other means of recovering organic waste. Non-compostable paper may be more suited for collection and recovery with other paper material for recovery, rather than food waste and green waste.</p> <p>Comment noted. The regulations are structured to specify material that cannot be collected in certain containers, e.g. glass cannot be collected in green containers with organic waste. Further, the regulations define organic waste however they do not specifically require organic specific materials to be collected together, e.g. the regulations do not require food and textiles to be collected together. The regulations allow jurisdictions to source separate materials that are recoverable when mixed together.</p> <p>The definition of organic waste itself does not govern how specific types of materials are handled. The definition identifies which materials are organic waste. The active text of the regulation, not the definition, controls how material is handled. Nothing in the regulatory text requires textiles or dead animals to be placed in the green container.</p>
4145	Pane J, Athens Services	6. Impact on Customer Rates	<p>Comment noted. CalRecycle disagrees that the cost presented in the SRIA, and the subsequent estimates provided in the Appendix to the ISOR, “vastly underestimate the true cost of</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>SB 1383 stated that local jurisdictions “may” charge and collect fees to recover the locals’ costs. The industry is already dealing with cost pressures of current regulations in the roll out of the new franchise territories in Los Angeles. Even with the changes suggested by both haulers and local governments there will be no choice but to raise rates due to the costs imposed by the proposed SLCP Regulations.</p> <p>Proposal: Reevaluate financial impacts of proposed regulations. A relaxation or modification of the regulations as proposed by Athens and others will have the dual benefit of making it more likely to approach the diversion targets while mitigating some of the significant costs that would have to be passed on to rate payers</p>	<p>implementation.” In the Appendix, CalRecycle presented a cost sensitivity of three scenarios. Each scenario is based on a projected disposal level. CalRecycle projected cost based on the most conservative projections of disposal (highest estimates of disposal and required recover of 289 million tons). CalRecycle also provided cost sensitivity for the economic value of recycled commodities and costs for transporting recovered material to market. CalRecycle relied upon the most conservative estimates for each of these sensitivity analyses (the highest estimate of transportation costs and lowest value for recycled commodities). The general comment that CalRecycle understates costs was made by several commenters but failed to specify how costs were underestimated or recommend an alternative method for estimated costs. Regarding comments that cite specific areas where the commenter believes costs are underestimated, those comments are addressed in separate responses.</p>
4146	Pane J, Athens Services	<p>7. Change Existing 0.5% Contamination Standard for Compost and Material for Land Application</p> <p>The existing max 0.5% contamination level for compost will not be attainable with this organic fraction otherwise GHG targets will not be achieved. This is no scalable technology that can economically remove this amount of contamination. There will be an organic fraction of this material that is best suited for landfill ADC and such application should be allowed.</p> <p>Proposal : Outside of these regulations, change the 0.5% contamination standard for compost and allow organic fraction – not suited for compost or land application market to be used as landfill ADC.</p>	<p>Comment noted. Section 17852 is an existing regulation and CalRecycle is not proposing any changes to this section. This is not within the scope of this rulemaking.</p>
5056	Pardo, V. California Refuse Recycling Council	<p>Section 18981.2. Implementation Requirement on Jurisdictions</p> <p>We realize that jurisdictions have limited resources to implement their responsibilities under these regulations and that most often contract haulers are well positioned to carry out many of these obligations. However, Section 18981.2(b) gives jurisdictions blanket authority to delegate all of their responsibilities. We read this as an inadvertent oversight as there are some responsibilities, such as those regarding enforcement and the imposition of penalties, that would be inappropriate for haulers to perform.</p>	<p>Comment noted, CalRecycle revised Section 18981.2 to clarify activities that may be delegated and to clarify that levying of penalties cannot be delegated to a private entity. CalRecycle finds that the imposition of administrative civil penalties involves a level of decision-making of substantial enough import regarding the success of this program that it should be made by jurisdictions as public agencies rather than being delegated to a private entity</p>
5057	Pardo, V. California Refuse Recycling Council	<p>“Notice and Order to Correct (NOTC)” and “Notice of Violation” –</p> <p>We seek more clarity on these definitions as it pertains to Article 16. Administrative Civil Penalties for Violations of Requirements of This Chapter. Are these definitions strictly for department enforcement action against entities and jurisdictions? What about jurisdiction-imposed penalties and enforcement?</p>	<p>Comment noted. Notice and Order to Correct (NOTC) and Notice of Violation (NOV) are for the Department use.</p>
5058	Pardo, V. California Refuse Recycling Council	<p>“Organic waste” –</p> <p>We understand that CalRecycle would like to include an organic waste definition to describe material that emits methane when anaerobically degrading and decomposing in the landfill. However, this definition is much broader than the programmatic elements of the Proposed Organic Waste Reduction Regulations and should be reduced in scope to accurately reflect the programmatic organic solid waste fraction we are endeavoring to recycle beyond the traditional recycling commodities we already manage. We strongly recommend the organic waste</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>definition be consistent with the language in AB 1826 and be replaced with “food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in the food waste.” If it is crucial to include a definition of relevant methane producing material, CalRecycle could consider the addition of a “Degradable Organic Carbon Waste” definition.</p> <p>At a minimum, the “organic waste” definition should not include any materials included under green container “prohibited container contaminants in Section 18982(a)(55) such as “carpet,” “hazardous wood waste” and “non-compostable” paper.</p>	<p>by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
5059	Pardo, V. California Refuse Recycling Council	<p>“Source separated organic waste” –</p> <p>We support the definition that organic waste placed in a container specifically intended for the separate collection of organic waste by the generator is considered source separated. It is important to note, however, that we do not interpret this material to include single-stream, dual-stream or tri-stream material collected in the “blue container.” The proposed organic waste definition is limited to food-soiled paper mixed with food waste and does not include paper material traditionally collected in the “blue container” recycling stream. This should be clarified in the regulatory text.</p>	<p>The regulations allow each jurisdiction to decide which recycling container to place paper in. This provision was included in response to previous comments from jurisdictions about the need for such flexibility.</p>
5060	Pardo, V. California Refuse Recycling Council	<p>Section 18984.1. Three-container Organic Waste Collection Systems –</p> <p>We appreciate the addition of meeting the container requirements through an appropriate lid color, but still require more clarity regarding this section. We recommend that split containers of traditional recyclable materials, most often collected in the blue can, have the option of using a lighter or darker blue lid to comply with the color requirements of this section. For example, a split container that collects bottles and cans on one side and paper on the other could have a lighter blue lid color to distinguish the sections, not necessarily a color other than blue, gray or green.</p> <p>We also seek clarity on whether these regulations limit loose in the street collection of green waste material. Many communities collect green waste loose in the street, often on a seasonal basis (e.g. leaf season). During leaf season in particular, loose in the street collection is important as it allows generators to place larger volumes at the curb than would normally fit in their 96-gallon container. This also supports additional diversion of green material from the landfill.</p>	<p>Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. Additionally, if the color is an issue in this circumstance, the business can use labels instead. CalRecycle will clarify in the FSOR that Section 18984.9(b), which allows a commercial business to provide containers that comply with either the color or the labeling requirements, applies to Section 18986.1 and Section 18986.2. CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>
5061	Pardo, V. California Refuse Recycling Council	<p>Section 18984.5. Container Contamination Minimization –</p> <p>We understand and support the need for contamination reduction at the curbside to encourage cleaner streams and improved material recovery. However, the</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>language as proposed does not provide a targeted approach that would focus valuable resources on the most contaminated routes. Route reviews should be directly tied to loadchecking outcomes of “significant visible contamination.” As the requirement is written in both Section 18984.5(b) as well as Section 18997.3, it appears that all containers on all routes will need to be reviewed quarterly, no matter how clean or contaminated the route is. We propose replacing “randomly selected containers in a manner that results in all collection routes being reviewed quarterly” with “randomly selected containers on routes identified to have significant visible contamination in loadchecking samples, that results in all targeted routes being reviewed annually.” The goal is to review routes that truly are contaminated, not those routes that provide predominantly clean material, thereby targeting the relevant generators. We also recommend all routes be reviewed on an annual, not quarterly basis.</p> <p>Furthermore, we believe designees should inform the jurisdiction in writing about generators with contaminants on a quarterly, not monthly basis. The jurisdiction would include this information in their report to the state on an annual basis. Any adjustments to this section would also impact the description of violation for Section 18984.5(b) under Section 18997.3. Department Penalty Amounts. As currently drafted, this description of violation imposes a daily route review each collection day in a manner that results in all route reviews being reviewed quarterly. Again, this approach does not direct the route review to the most contaminated generator streams. It is also overly burdensome, costly, and time-consuming. Route reviews should occur on an annual basis and be directed at generator streams with significant contamination.</p> <p>Of course, with all sections, nothing precludes a jurisdiction from adopting more stringent route review standards.</p>	<p>to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. CalRecycle also revised the route reviews to be annual. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
5062	Pardo, V. California Refuse Recycling Council	<p>Section 18984.6. Recordkeeping Requirements for Container Contamination Minimization</p> <p>Members are concerned that copies of all written notices, violations, education, and enforcement actions issued or given to the generator with prohibited container contaminants is unnecessarily excessive and should be limited in scope to notice of violations and enforcement actions issued.</p> <p>For example, there is no need to copy every “Oops” tag a generator might receive as this is an additional and disproportionate layer of recordkeeping in an already time-consuming monitoring process.</p> <p>This section should be adjusted to reflect that a summary report of written notices and education should suffice as a recordkeeping requirement.</p>	<p>The language was amended to clarify that if a jurisdiction provides mass distribution through mailing the jurisdiction is only required to keep a copy of the information and a list of accounts receiving the information. The jurisdiction is not required to keep a copy of each individual piece of information. It is necessary for jurisdictions to keep a record of recipients in order to demonstrate compliance.</p>
5063	Pardo, V. California Refuse Recycling Council	<p>Section 18984.7. Container Color Requirements</p> <p>We support the inclusion that a jurisdiction is not required to replace functional containers that do not comply with the color requirements prior to the end of their</p>	

Comment Number	Received From	Question/Comment	Response(s)
		<p>useful life, or prior to January 1, 2032, whichever comes first. We ask that CalRecycle clarify in this section that useful life includes containers in stock purchased prior to 2022.</p> <p>Additionally, roll-offs, compacters and debris boxes that are often used interchangeably for various collection programs should be excluded from the proposed color and labeling requirements.</p>	
5064	Pardo, V. California Refuse Recycling Council	<p>Section 18984.9. Organic Waste Generator Requirements</p> <p>The proposed regulations currently read, “containers provided by the business shall conform with the containers provided through the organic waste recovery service provided by their jurisdiction.”</p> <p>We ask that you clarify if this requirement pertains to all service containers provided (e.g. gray, blue, green, etc.) or strictly the organic waste container (e.g. green in many cases).</p>	
5065	Pardo, V. California Refuse Recycling Council	<p>Section 18984.11. Waivers and Exemptions Granted by a Jurisdiction</p> <p>We appreciate that these regulations extend beyond the generator obligations of AB 1826 and provide more opportunity to collect organics from commercial streams. We ask that you specify how a jurisdiction would provide “evidence” that a commercial business meets the De Minimis Waiver expectations as currently outlined.</p> <p>We continue to remain concerned about the inclusion of a Collection Frequency Waiver, as some form of putrescible material (e.g. diapers) will always be present in the gray container. We ask that this waiver be removed.</p>	
5066	Pardo, V. California Refuse Recycling Council	<p>Article 5. Generators of Organic Waste</p> <p>For California to meet the organic waste diversion goals of SB 1383, it is critical that all generators play a role in complying with the regulations. To that point, non-local entities and local education agencies should have more direct oversight by CalRecycle and be subject to the same penalties as other generators.</p>	<p>A change to the regulatory text is not necessary. Pursuant to 18996.7, the Department has oversight and enforcement over local education agencies, CalRecycle does not find it is appropriate to impose penalties out of concern over impacts to limited local education funding.</p>
5067	Pardo, V. California Refuse Recycling Council	<p>Section 18990.1. Organic Waste Recovery Standards and Policies</p> <p>We support additional flexibility in the requirement that generators use an organic waste collection system that recovers “at least the same types of organic waste” recovered by a previous collection service. This provision must take into account incompatible material processing issues (e.g. bioplastics, palm fronds, etc.) and market conditions (e.g. National Sword).</p>	<p>A change to the regulatory text is not necessary. This section will not conflict with market conditions. Potential market shifts will impact all facilities. This section is necessary because the statute is intended to increase organics recycling, not decrease organics recycling. This provision is simply designed to prohibit a jurisdiction from requiring a generator to send its material to a facility that will recycle less of it than one they are currently sending it to.</p>
5068	Pardo, V. California Refuse Recycling Council	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>The inclusion of a procurement target for recovered organic waste products sends an important market signal and supports education around organic waste recovery more generally. However, like many other stakeholders, we believe it is incumbent on non-local agencies and local education agencies to participate in a procurement target obligation as well.</p>	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
5069	Pardo, V. California Refuse Recycling Council	<p>Additionally, biomass conversion is an activity deemed to constitute a reduction in landfill disposal under Section 18983.1(b)(4). Therefore, the procurement target should include electricity generated from recycled organic waste as well as pipeline injected biogas. Moreover, these products are consistent with the recommendations of the 2017 Integrated Energy Policy Report (IEPR).</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
5070	Pardo, V. California Refuse Recycling Council	CalRecycle should also consider a pathway for jurisdictions to obtain approval of an unlisted organic commodity, similar to the provisions of Section 18983.2 for additional technologies that constitute a reduction in landfill disposal.	CalRecycle disagrees with adding an option for approval of “unlisted organic commodities” for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.
5071	Pardo, V. California Refuse Recycling Council	The agency may also consider if a jurisdiction can meet their procurement obligations by implementing and enforcing ordinances that facilitate additional organic commodity procurement. Jurisdictions would need to provide documentation to demonstrate how much compost, for example, was procured annually through the ordinance obligation.	Nothing in the regulations prevents a jurisdiction from establishing a subsidy program or implementing and enforcing an ordinance to support the use of recovered organic waste products. If those subsidies or ordinances help drive procurement and use of eligible recovered organic waste products and all applicable requirements of Article 12 are met, then a jurisdiction may count that procurement towards its target.
5072	Pardo, V. California Refuse Recycling Council	<p>This article contains sections describing the methodology by which a transfer and processing facility will determine if they are meeting the organic waste recovery efficiency expectations of a “high diversion organic waste processing facility” and/or the 10% incompatible material limit in recovered organic waste.</p> <p>We have several concerns with the described methodology and offer the following recommendations. Please note that these recommendations also apply to Section 17869 (Article 8. Composting Operation and Facility Records) and Section 17896.44.1 (Article 3. Operation Standards for In-Vessel Digestion Operations and Facilities) as they pertain to organic waste residual calculations.</p> <p>There are too many variables and unknowns regarding the proposed organic waste recovery efficiency protocol to include in the regulatory text. The regulations should reference a guidance document that will include a CalRecycle approved protocol that can be more easily altered and updated as we implement these regulations. Flexibility is necessary both for CalRecycle and the reporting entities to ensure we create a workable methodology based on implementation realities. This guidance document should be created separately from the current rulemaking with substantial facility stakeholder input that can be beta-tested at facilities prior to adoption.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data. Also, Sections 17409.5.9 for transfer/processing facilities, 17867(16)€ for composting facilities, and 18896.44.1(d) for In-Vessel Digestion facilities allows operators to propose an alternative measurement protocols for these sections with approval by the EA and concurrence from CalRecycle if the operator can ensure that the measurements will be as accurate. CalRecycle staff will develop tools to assist in the implementation of the regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>The guidance document should take into account several issues, including, but not limited to:</p> <ul style="list-style-type: none"> • Wet versus dry processing measurement methods • Particle size in sampling protocol • Reduced sampling frequency based on consistently meeting a 10% or better efficiency standard • Alternative measurement protocols that have been concurred by CalRecycle 	
5073	Pardo, V. California Refuse Recycling Council	<p>Additionally, the frequency of sampling as proposed requires excessive mobilization for data that can be collected with less frequency. A daily sampling requirement is time-consuming, cost prohibitive, labor intensive, and requires valuable facility space to implement. We strongly recommend that sampling occur one business week a quarter, thereby capturing daily and seasonal fluctuations at a reduced cost to facilities and, ultimately, rate paying customers.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The operator will now be taking composite samples for 10 consecutive days per reporting period, which is on a quarterly basis. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
5074	Pardo, V. California Refuse Recycling Council	<p>This section also needs to clarify that sampling does not need to occur for on-site transfer of organic waste for further processing. For example, a transfer/processing facility may accept organic waste for processing, which is then sent to an in-vessel digestion operation on the same site. The regulations need to clarify that this material is not subject to the organic waste recovered measurement requirements.</p>	<p>CalRecycle has revised the proposed regulations in response to comments. The change added Section 17409.5.10.5 to address co-located facilities or operations. The change was necessary to clarify when the measurement protocol is required to be completed if two activities are co-located.</p> <p>Section 17409.5.10.5 requires the measurement protocol to be performed by each activity even if the material from the first activity is sent to the co-located activity, if the facility as a whole sends more than 20% of organic waste to disposal on and after 2022 and 10% on and after 2024. However, if the facility as a whole sends less than 20% of organic waste sent to disposal on and after 2022 and 10% on and after 2024, then the operator would not be required to perform the measurement protocol on the material sent to the co-located activity, only the material sent off-site.</p> <p>In your example the transfer/processing facility would not be subject to the measurement protocols if the total material sent for disposal from both the transfer/processing facility and the in-vessel digestion (IVD) facility has less than 20 percent of organic waste on and after 2022 and 10 percent on and after 2024. If the residual of the whole of the permitted facility (both facilities) contains more than the acceptable percentage levels of organic waste, then the transfer/processing facility would be required to perform the measurement protocol on the organics waste sent to the IVD on-site. Regardless of how much organic waste is in the residual,</p>

Comment Number	Received From	Question/Comment	Response(s)
			any organic waste not sent to the IVD but off-site for further processing would be required to comply with the measurement protocol.
5075	Pardo, V. California Refuse Recycling Council	We also ask that the regulations clarify that digestate from an in-vessel digestion operation sent for compost is not subject to the organic waste recovered measurement requirements.	<p>CalRecycle has revised the proposed regulations in response to comments. The change added Section 17409.5.10.5 to address co-located facilities or operations. The change was necessary to clarify when the measurement protocol is required to be completed if two activities are co-located.</p> <p>Section 17409.5.10.5 requires the measurement protocol to be performed by each activity even if the material from the first activity is sent to the co-located activity, if the facility as a whole sends more than 20% of organic waste to disposal on and after 2022 and 10% on and after 2024. However, if the facility as a whole sends less than 20% of organic waste sent to disposal on and after 2022 and 10% on and after 2024, then the operator would not be required to perform the measurement protocol on the material sent to the co-located activity, only the material sent off-site.</p> <p>In your example, if the in-vessel digestion operation is composting the digestate on site, then it would depend on whether the total amount of organic waste in the material sent for disposal by the facility as a whole meets the 20% on and after 2022 and 10% on and after 2024. If the digestate is sent off-site to be composted, then it would be subject to the recovery measurement.</p>
5076	Pardo, V. California Refuse Recycling Council	It is critical to note that our interpretation is that sampling expectations are for mixed waste collection and source-separated organic collection streams only. This means that material collected in the blue bin of a three-container organic waste collection service is not subject to these requirements, whether the collection be single-stream, dual-stream, tri-stream or otherwise.	CalRecycle has revised this section in response to comments. The change will clarify which blue containers are subject to the efficiency recovery rate. Yes, organic waste in a blue container of a three-container system is not subject to High diversion organic waste processing facility. It would be source separated organic waste not subject to the organic waste recovery efficiency but it would be subject to the acceptable levels of organic waste in the material sent for disposal.
5077	Pardo, V. California Refuse Recycling Council	Organic waste recovery reporting for all facilities, including compost and in-vessel digestion operations, should occur on a quarterly basis. We also ask that CalRecycle clarify what is the definition of “measurement protocol” when determining an alternative measurement protocol.	<p>CalRecycle has revised the reporting frequency for all facility types in response to comments. The reporting frequency requirement was revised to “reporting period” which is on a quarterly basis. The four reporting periods in each calendar year are:</p> <p>(A) Reporting Period 1- January 1 to March 31 (B) Reporting Period 2 -April 1 to June 30 (C) Reporting Period 3 - July 1 to September 30 (D) Reporting Period 4 - October 1 to December 31</p> <p>The measurement protocols for determining the organic waste recovery are explained in Sections 17409.5.2 through 17409.5.5, and 17409.8 for the transfer/processing facilities, Section 17867(a)(16) for the composting facilities, and Section 17896.44.1 for the in-vessel digestion facilities.</p>
5078	Pardo, V. California Refuse Recycling Council	Finally, we seek clarity on how the 10% incompatible limit relates to transfer/processing facilities that process source-separated organic waste, as well as go above and beyond to process remnant organic material. Our interpretation is	A change to the regulatory text is not necessary. Section 17409.5.8 explicitly states that this requirement is only for source separated organics and mixed organic waste streams sent for recovery, not remnant organic material.

Comment Number	Received From	Question/Comment	Response(s)
		that facilities in this case are only obliged to measure incompatibles from the source-separated stream and use that percentage in meeting the expectations of Section 17409.5.8.(a). However, we recommend Section 17409.5.8 include language that clearly excludes remnant organic material from the 10% incompatible limit.	
5079	Pardo, V. California Refuse Recycling Council	Section 17409.5.7 Loadchecking – Contamination in Source Separated Organic Waste As described under our route review recommendations, this section should be revised to identify sources of “significant visible contamination.”	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
5080	Pardo, V. California Refuse Recycling Council	A lead enforcement agency should also be able to approve an alternative frequency for loadchecking if the incoming material is consistently demonstrated to not have significant visible contamination.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site. In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.
5081	Pardo, V. California Refuse Recycling Council	We also seek clarity on the alternative frequency provision of (c)(2). Why would a source separated organic waste collection stream contain remnant organic material when that material would be found in the gray container?	CalRecycle has deleted the loadchecking requirement Section 17409.5.11 in response to comments.
5082	Pardo, V. California Refuse Recycling Council	Section 17409.5.10. Solid Waste Handling at Consolidation Sites. This section needs to also include language that consolidation sites are not subject to the requirements of Section 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream.	CalRecycle has revised this section to include Section 17409.5.11.
5083	Pardo, V. California Refuse Recycling Council	Section 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream	CalRecycle has deleted the loadchecking requirement Section 17409.5.11 in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
		<p>We appreciate the recent addition and clarification that remnant organic material is not subject to the requirements of Sections 17409.5.1 and 17409.5.8. However, as written, the regulations would require duplicative loadchecking and recordkeeping on material at both a transfer station and the landfill to which it is sent despite that material not having been processed. We recommend transfer stations transferring solid waste from the gray container to the landfill be exempt from these loadchecking and recordkeeping requirements as they will be performed at the receiving landfill.</p>	
6034	Pardo, V., California Refuse Recycling Council	<p>Section 19896.44.1 Can you please clarify the intention of lines 22-23 on page 63 of the proposed regulatory text as it relates to loadchecking requirements? If the source separated organic waste collection stream “does not contain any remnant organic material” it may be eligible for approval of an alternative loadchecking frequency by the EA. I am unclear what this means and hoping you can provide some clarity. Remnant organic waste, as defined, is that which is recovered from the gray container stream, so by definition it seems like no remnant organic waste should be in a separated organic waste collection stream? Perhaps you can share what the intent is in this language? Any help you could offer would be greatly appreciated.</p>	<p>CalRecycle has deleted the loadchecking requirement for In-vessel digestion operations and facilities in response to comments</p>
6376	Parker, A., City of Hemet	<p>As a disadvantaged community, implementation and enforcement of the Regulation as proposed will place a heavy financial burden on the community, its businesses and residents. We remain concerned about the following critical points that specifically hinder our ability to implement the proposed Regulation: Article 3, Section 30.5 Container Contamination Minimization. Upon finding prohibited container contaminants in a container, the jurisdiction, or its designee, shall contact the generator or provide written notice to the generator. This City of Hemet's curbside collection system is automated. Drivers remain in their collection vehicle and use the trucks mechanical arm to lift containers 10 feet into the air to dump in to the body of the vehicle. In order to find contaminated containers, drivers would have to exit their vehicles to inspect individual containers. Route drivers are expected to collect 800 to 900 containers each day. Adhering to the proposed legislation would require route drivers to physically examine hundreds of containers on each route on a daily basis and additional staffing resources to issue notices. This will result in additional costs and place an additional financial burden on the residents of our already severely economically disadvantaged community. The City of Hemet recommends to exempt residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels. CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination. In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>

Comment Number	Received From	Question/Comment	Response(s)
6377	Parker, A., City of Hemet	<p>Requires route review on randomly selected containers in all collection routes quarterly (pg. 14, line 51). The City's franchise hauler services tens of thousands of containers every week. A quarterly route review for all routes in the City is not possible without the addition of staffing and funding. It is not feasible for drivers to perform this task, and complete their routes in a timely manner. The required additional work will directly impact our franchise hauler. As a result, the City would likely have to hire additional staffing to inspect individual containers. The City of Hemet recommends to exempt residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels. CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination. In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6378	Parker, A., City of Hemet	<p>If a jurisdiction is informed by a solid waste facility operator that the waste collected by one of its haulers contains prohibited containers contaminants while the hauler was servicing the jurisdiction's generators, then the jurisdiction, or its designee, shall: (1) Investigate by physically inspecting containers along the route(s) that the contaminates came from to determine the sources of contamination. As in the previous comment, it is not possible to determine individual generators that contaminated a route unless containers are individually checked. This is not feasible in automated vehicles without significant added expense. The City of Hemet recommends exempting single-family and small multifamily residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels. CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions.</p>

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			<p>However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6379	Parker, A., City of Hemet	<p>Article 10: Jurisdiction Edible Food Generators and Food Recovery.</p> <ol style="list-style-type: none"> 1. Edible food generators must participate in food recovery and keep records of who collects and receives its edible food, frequency, and quantity collected, and contracts/written agreements with food recovery services and organizations. 2. Jurisdictions shall develop and maintain a list of food recovery organizations and services; monitor compliance of edible food generators, food recovery services and organizations; and ensure proper data collection. <p>This is a significant administrative, training, and logistical burden for small businesses to manage its excess edible food, until it can be retrieved by a food recovery organization. The burden on the City to monitor and enforce the proposed rules related to edible food generators and food recovery creates an adversarial and punitive tone to a program that intends positive beneficial outcomes for those going hungry in our community. The City recommends that Cal Recycle seek guidance from the community to understand what is needed to gather, store and deliver edible food in a safe and efficient manner.</p>	<p>Removing the commercial edible food generator requirements from the regulations, and the jurisdiction requirement to monitor commercial edible food generator compliance (enforcement) would make it voluntary for commercial edible food generators to arrange for their edible food to be recovered, which is the current situation in California. We have seen that when food donation is voluntary millions of pounds of edible food are disposed rather than being put to the highest and best use of helping feed people in need.</p> <p>In response to 2., a change to the regulatory text was not necessary for the following reasons. Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely recovering large quantities of edible food on a routine basis. Please note that the list is intended to serve as a tool to help generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby 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.</p> <p>Regarding the comment that CalRecycle “seek guidance from the community to understand what is needed to gather, store and deliver edible food in a safe and efficient manner.” For the past three years of SB 1383 rulemaking CalRecycle has worked very closely with key food recovery stakeholder groups to help develop SB 1383's edible food recovery regulations. In addition, CalRecycle works directly with food recovery organizations and services across the state through the Department’s Food Waste Prevention and Rescue Grant Program. CalRecycle’s Food Waste Prevention and Rescue Grant Program has given the Department insight into the significant differences in edible food recovery capacity needs that exist in cities, counties, and regions in California. The significant differences in capacity needs that exist only emphasize and highlight the critical need for jurisdictions and counties to perform their own local capacity assessments.</p>
6380	Parker, A., City of Hemet	<p>Article 13 and 14 Regarding Reporting and Enforcement Requirements</p> <ol style="list-style-type: none"> 1. The jurisdiction is responsible and required to ensure regulations are enforced. This includes applicable account (generator and hauler) record keeping, various inspections for compliance, addressing complaints and issuing violations. <p>In the current draft legislation, a tremendous amount of effort is placed on enforcement and recordkeeping, which will require the City to divert scarce funds and resources away from initiatives to an enforcement based system. The City recommends reducing the burden of enforcement and record keeping so that the City may focus on education, source reduction and organics collection.</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.</p>

Comment Number	Received From	Question/Comment	Response(s)
3064	Perez, J., Imperial County	<p>Remove Section 18083(c) At least once per quarter, the EA shall oversee a minimum of one (1) measurement as described in 14 CCR Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1, during an inspection required in subdivision (a).</p> <p>a. The sections listed (14 CCR Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1) give LEAs authority to require operators to perform measurements and load checking, therefore not needed in Section 18083.</p> <p>b. The new section creates a mandate and a performance standard for the LEA, binding the LEA to a specific amount of time and effort to review one action at a facility. Current measurement time is estimated to be 3-5 hours.</p> <p>c. This section disregards LEA determination of compliance of a facility unlike the statements in the other sections that leaves the option of observation to the LEA. This is important because if a facility is determined to be consistently in compliance with measurement and load checking, the LEA is mandated to observe quarterly regardless instead of putting time and resources to less compliant facilities.</p>	<p>CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.</p>
3065	Perez, J., Imperial County	<p>Revise Section 18984.11(a)(3)(A)(1) The jurisdiction, or its authorized hauler, demonstrates to the Solid Waste Local Enforcement Agency that less frequent collection than required by Section 17331 of Title 14 of the California Code of Regulations will not result in the propagation of vectors or other public health and safety, or nuisance issues.</p> <p>a. Section 18984 identifies the Solid Waste Local Enforcement Agency as the designee to allow less frequent collection whereas Section 17331 designates the Local Health Officer. This section conflicts with the section that it cites.</p> <p>b. As an LEA, we do not wish to be the designee for less frequent collection and would like it to remain a Health Officer duty.</p>	<p>Section 18984.11 was revised to enforcement agency.</p>
6439	Perkins, J., City of San Diego	<p>Article 3. Section 18984.12 as written does not allow for good faith effort: Given the realities of lengthy environmental review and permitting for new facilities, and other unavoidable impediments to implementation of the regulations, provisions should be made for good faith effort. Section 18984.12 should include a subsection (e) stating that "Waivers and extensions may be granted to any generator, hauler, or jurisdiction that has made a good faith effort to comply with these requirements but has been unable to identify a facility with sufficient capacity to process the materials".</p>	<p>A change to the regulatory text is not necessary. When the Legislature enacted the Recycling of Commercial Waste ("MCR") law (PRC Section 41649.3(h) and (i) and the Recycling of Organic Waste ("MORE") law (PRC Section 42649.82(g) and (h) both statutes expressly required that the Department evaluate these programs using the "good faith effort" standard contained in PRC section 41825.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
			Further, Making a good faith effort to achieve a unique jurisdiction target that fluctuates with annual generation is not compatible with the SB 1383 mandate to achieve a specific statewide organic waste disposal cap of 5.6 million tons on and after 2025. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
6440	Perkins, J., City of San Diego	Additionally, subsection 9 (c) should be added to section 18996.3 stating, "Notwithstanding the preceding, if a jurisdiction demonstrates good faith effort at complying with these requirements, the department shall not seek administrative penalties. "	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
6441	Perkins, J., City of San Diego	For comparison, Section 18996.6 specifies that while a State agency may receive a notice of violation, and various bodies may be notified of this, there is a provision for "substantial effort», however, there is no provision for administrative penalties. Local governments cannot compel a State agency (or non-local entity) to comply with the requirements, and be responsible for the resultant waste. Failure of a State agency or a non-local entity to fully comply with all requirements could potentially result in not compliance with the requirements. Thus section 18996.3 should include a subsection 9 (d) stating, "No penalties shall be assessed on a jurisdiction for failure of State, non-local, or other entity's failure to comply with the requirements of these regulations if the local government has no legal authority over the actions of the entity» .	A change to the regulatory text is not necessary. Pursuant to 18996.6, the Department has oversight and enforcement over state agencies and facilities. Local jurisdictions do not authority to enforce against these entities. Enforcement actions against these entities is fundamentally different in nature from enforcement action against other regulated entities.
6442	Perkins, J., City of San Diego	Article 9. Section 18990.1 (b)(2) as proposed would prohibit facilities from preventing organic waste coming from outside of the jurisdiction: It is imperative that facilities are able to control the source of materials. For example, if a jurisdiction elects to construct a Resource Recovery Facility it would likely need to focus first on providing organics recycling services for waste streams generated within that jurisdiction, in order to ensure compliance with the SB 1383 regulation. To date, the State has provided very little incentive funding for the construction or expansion of organics recycling infrastructure, if ratepayer funds are used to finance these facilities then the jurisdiction will need to prioritize ratepayers' waste (both residential and commercial) and ensure that sufficient capacity is available at the new facility to process it. As a result, there should be flexibility for facility owners and operators to choose which waste streams they will take on. The following language would clarify the intent: "Whether public or private,	. A change to the regulatory text is not necessary. Nothing in the regulatory text would limit the application of appropriate standards to imported waste. Section 189901 (c) (1) provides that this section does not require a solid waste facility or operation to accept organic waste that does not meet the quality standards established by the solid waste facility or operation.

Comment Number	Received From	Question/Comment	Response(s)
		the operator of a facility may limit the origin, sources, and types of materials entering its facility".	
6443	Perkins, J., City of San Diego	Article 9. Section 18992.3 (a) (1-4) has an infeasible timeline: The timelines for the reporting periods, as written, request a reporting deadline for information that occurs in the future. I.e. "(1) February 1, 2022 counties shall report to CalRecycle on the period covering January 1, 2022 through December 31, 2024". This should be revised to reflect the proper dates. In addition, the reporting periods should stay consistent. Please change (1) to reflect the August 1, 2022 reporting period.	Thank you for the comment. CalRecycle revised the date for the first reporting period to be August 1, 2022. However, since this is a planning activity it is intended to plan for future capacity so CalRecycle is not changing the dates for the first and subsequent planning timeframes.
6444	Perkins, J., City of San Diego	Article 12. Section 18993.1(f) procurement mandate for byproducts of organics recycling is too narrowly structured: Throughout the SB 1383 implementation process, the City has advocated to CalRecycle that for this program to work and be feasible for localities and agencies to implement, viable markets need to be developed for the valuable byproducts of the organics recycling process. These byproducts include both biogas and solids, both of which have numerous beneficial uses available in the marketplace today. Communities incorporating more sustainable solutions into their solid waste and wastewater management practices should be allowed to objectively evaluate these options and adopt a waste management strategy that achieves the greatest environmental benefits (reduced GHG and criteria air pollutant emissions, renewable energy generation and use, soil health, agricultural best practices, etc.) while also being cost-effective for ratepayers.	CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Regarding biosolids products, the current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B)). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target.
6445	Perkins, J., City of San Diego	To address the market development issue, Article 12 of the draft regulation includes a procurement mandate, requiring jurisdictions to annually procure a certain quantity of the byproducts of organics recycling, and the City supports this approach. Unfortunately, the procurement requirement in the current draft is structured far too narrowly, as it provides only a single option each for the use of solids (compost) and biogas ("renewable transportation fuel 1") to comply. This limited approach to compliance ignores the much broader variety of beneficial uses to which both solids and biogas may be put. For example, biogas may be beneficially reused not just as low-carbon transportation fuel, but also to produce clean, renewable baseload energy, or the biogas can be injected directly into existing common carrier pipelines for use at other facilities. Each of these uses feature valuable and recognized environmental benefits, and they should qualify under the Article 12 procurement requirement.	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target. SB 1383 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 "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

Comment Number	Received From	Question/Comment	Response(s)
			<p>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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6446	Perkins, J., City of San Diego	<p>This unduly restrictive limitation could have the unfortunate impact of forcing agencies that have been good stewards of resources to abandon successful projects in operation today in order to comply with the State's narrow view of beneficial reuse. As an example, the City of San Diego has long operated multiple biogas renewable energy generation projects, as well as our biomethane direct pipeline injection project (at the Point Loma Wastewater Treatment Plant). Since the City has extensive experience with these two types of biogas beneficial reuse-but not with renewable transportation fuel-CalRecycle should give the City and other regulated entities the flexibility to implement reuse strategies that align with existing core competencies, utilize existing, in-place infrastructure, and that also support achievement of local sustainability initiatives such as the City of San Diego's Climate Action Plan. The goal of SB 1383 is to reduce methane emissions by reducing landfilling of organic waste streams, while also drastically expanding recycling and beneficial reuse of these materials. The State should not use the SB 1383 regulatory process to pick application and technology winners and losers and impose a one-size-fits-all approach on regulated entities. Moreover, both the State's 2030 Scoping Plan and the Short-Lived Climate Pollutant Reduction Strategy call for the use of biogas for both pipeline injection and electricity generation, as well as vehicle fuel. As long as a locality's waste management practices meet both of the fundamental methane-related goals of SB 1383, their projects should be deemed compliant.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically</p>

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			<p>mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6447	Perkins, J., City of San Diego	<p>Article 13. Section 18994.2 (d) and (f) puts an undue burden on cities with non-exclusive franchise agreement: Requiring the City to be responsible for all tracking and reporting of the self-haulers and back-haulers found in § 18994.2(f) requires strict regulations on small businesses like contractors, landscapers, and small community composters or recyclers. The City has thousands of small contractors, landscapers, and community composter and recyclers, it will not be feasibly possible to track and ensure these small self-haulers are compliant. The City has carved these specific classifications out of the franchise hauler agreements due to inability of enforcing against these small haulers without owning every landfill and transfer facility in the county.</p>	<p>CalRecycle has revised section 18994.2 in response to this comment. The reporting requirements to report the number of self-haulers approved to operate within the jurisdiction has been removed.</p>
6448	Perkins, J., City of San Diego	<p>The waiver program mentioned in§ 18994.2(d) is also difficult to track due to the non-exclusive franchise hauler system. It is more appropriate to place the responsibility on the self-haulers and use the reporting requirements from AB 901 to track them.</p>	<p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>
6449	Perkins, J., City of San Diego	<p>Article 14. Section § 18995.1(a)(1)(A) as written may cause duplicative reporting: A jurisdiction must complete a compliance review of all garbage accounts for commercial businesses that are subject to its authority, that generate two cubic yards or more per week of solid waste and produce organic waste, determine their compliance with the self-haul requirements by back-hauling waste, and conduct route reviews of commercial businesses and residential areas for compliance with generator requirements and container contaminants. The City has a non-exclusive franchise system, which makes it very difficult to have precise tracking for route reviews and compliance with generator requirements. Facilities have the ability to switch franchisees anytime based on price or service, therefore, tracking could result in numerous duplicate facilities even if done on a monthly basis. Facilities can also have multiple waste hauling services for different</p>	<p>CalRecycle has revised section 18995.1 in response to this comment. Section 18995.1 was revised to include the option of conducting route reviews or waste composition studies to meet the container contamination minimization requirements. If the jurisdiction chooses to conduct waste composition studies and contaminants exceed the allowed 25 percent, the jurisdiction shall notify all generators on the sampled hauler route or perform a targeted route review. This allows the jurisdiction flexibility if jurisdiction finds it difficult to have precise tracking for route reviews if hauler change, the facilities should stay consistent. Route reviews are to be conducted annually to verify compliance with Section 18984.9(a) that organic waste generators are subscribing to and complying with organic waste collection services or self-hauling organic waste. A jurisdiction shall conduct a sufficient number of route reviews of entities to adequately determine overall compliance. Section 18994.2 was revised to remove the reporting requirements related to self-</p>

Comment Number	Received From	Question/Comment	Response(s)
		aspects of the business. Further, being able to track self-haul and back-hauling requirements would be difficult if the business itself is not a customer of any franchisee. This further complicates reporting requirements for the City.	haulers, such as the number of self-haulers approved and the amount of source separated organic waste self-hauled.
6450	Perkins, J., City of San Diego	Article 14. Section 18995.2 (b) and (c) a one-day request for complete reporting information is infeasible: Considering annual reports are mandatory, (c) should be deleted from this section or revised to reflect a reasonable reporting time period.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
6451	Perkins, J., City of San Diego	Article 15. Section 18996.2 (a)(2)(B) as written does not consider jurisdictional budgets: Jurisdictions have competing regulations to comply with. Given the reality of jurisdictional budgets and the cost for newly required infrastructure, "a failure to provide sufficient funding to assure compliance,,, should be removed from this section. Jurisdictions should be given credit for their good faith efforts.	A change to the regulatory text is not necessary. This exclusion of the circumstance where a decision-making body of a jurisdiction has not taken action as "substantial effort" was to prevent delayed enforcement action due to a jurisdiction failing to take adequate steps to comply with the Chapter. The success of the Short-lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. This strict timeframe does not allow for a multi-year and multi-step process for achieving compliance or a "good faith effort" as with AB 939. Enforcement by the Department allows a jurisdiction extended timeframes to come into compliance through extensions and the Correction Action Plan (CAP). Absolving the jurisdiction of their responsibility to comply with the regulations due to the failure of a decision-making body would render the state incapable of achieving the SB 1383 targets. The jurisdiction is ultimately responsible for their compliance with the Chapter and shall be subject to penalties for noncompliance and the decision-making body will need consider the possibility of penalties if it fails to take the necessary steps to comply. By adopting the SB 1383 regulations as early as possible, impacted stakeholders will be provided the maximum amount of time to prepare and budget for implementation and compliance. The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a CAP. This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3749	Pestrella, M., County of Los Angeles	The proposed definition of "Food recovery organization" as written includes temporary food facilities, as defined under Section 113842 of the Health and Safety Code. According to the Health and Safety Code: Nonprofit charitable temporary food facilities" means either one of the following: (a) A temporary food facility, as defined in Section 113930, that is conducted by a nonprofit charitable organization, as defined in Section 113841. (b) An established club or organization of students that operates under the authorization of a school or other educational facility.	Removing "nonprofit charitable temporary food facilities" from the definition of "food recovery organization" was not necessary. The proposed change was not necessary because these entities are a type of food recovery organization that should be recognized and also can help California achieve its 20% edible food recovery goal. However, CalRecycle also recognizes that that assessing edible food recovery capacity at nonprofit charitable temporary food facilities could be onerous given that these entities include clubs or organizations of students that operate under the authorization of a school or other educational facility. To address this concern, CalRecycle revised Section 18992.2. (a)(2) so that jurisdictions will not be required to assess capacity at nonprofit

Comment Number	Received From	Question/Comment	Response(s)
		<p>Should these clubs and organization be included, local jurisdictions would have to:</p> <p>1) Annually identify all clubs or organizations at schools and other educational facilities (which are considered non-local entities) operating within the jurisdiction and maintain these school clubs and organizations on the jurisdiction’s website and outreach materials as potential temporary food facilities for use by commercial edible food generators pursuant to Section 18985.2(a)(1).</p> <p>2) Assess the edible food recovery of school clubs and organizations which are involved in food recovery activities - pursuant to Section 18991.2(a)(2).</p> <p>Public Works recommends that nonprofit charitable temporary food facilities be excluded from the requirements listed under Section 18985.2(a)(1) and Section 18991.2(a)(2), as they do not contribute greatly to existing food recovery capacity, and it would be an undue burden to both jurisdictions and student organizations to have to comply with these regulations.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(25) “Food recovery organization” means an entity that primarily engages in the collection or receipt of edible food from edible food generators and distributes that edible food to the public for consumption, including, but not limited to:</p> <p>(A) A food bank as defined in Section 113783 of the Health and Safety Code;</p> <p>(B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,</p> <p>(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.</p>	<p>charitable temporary food facilities located within the county and jurisdictions within the county. This revision was necessary to help jurisdictions comply with the edible food recovery capacity planning requirements specified in Article 11.</p> <p>Regarding the comment pertaining to Section 18985.2. Edible Food Recovery Education and Outreach (a)(1). The commenter has misinterpreted the requirement to develop a list of food recovery organizations and services operating within the jurisdiction. To clarify, the requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and services operating within the jurisdiction, just that “a list” be created, maintained on the jurisdiction’s website, and updated annually.</p> <p>It is at the discretion of the jurisdiction to determine the food recovery organizations and services that they believe should be included on the list. Please note that the list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with pursuant to Section 18991.3(b), and thereby 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.</p> <p>Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing recovered edible food on a routine basis.</p>
3750	Pestrella, M., County of Los Angeles	<p>The definition of “organic waste” in (a)(46) does not specifically include “food-soiled paper,” but it includes “paper products”. The definition of paper products in (a)(51) does not specify if food-soiled paper is considered a paper product. The regulations should clarify if food-soiled paper is considered a type of organic waste subject to the landfill disposal reduction requirements of these regulations.</p>	<p>Food soiled paper can be composted and should be appropriately diverted from landfill disposal.</p>
3751	Pestrella, M., County of Los Angeles	<p>The definition of “organic waste” in (a)(46) includes “lumber” and “wood.” The terms “lumber” and “wood” are not defined elsewhere in the regulations. Public Works recommends that the regulations specify which materials would be considered lumber and wood to allow jurisdictions to collect and recycle these materials.</p>	<p>CalRecycle finds that the existing "organic waste" definition is adequate. The regulations have a definition of "hazardous wood waste" which describes the type of wood or lumber which shouldn't be sent to organic waste recovery because it is incompatible with composting, anaerobic digestion or other organic waste recovery facilities or operations.</p>
3752	Pestrella, M., County of Los Angeles	<p>“Route review” is defined in (a)(65) as “a visual inspection of containers along a hauler route...” However, the terms “hauler route” or “route” are not defined in the regulations. To facilitate compliance with the requirements to perform route reviews pursuant to Section 18984.5, the regulations should define the scope of the terms “hauler route” or “route.”</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(32) “Hauler route” or “route” means a way or course taken by one truck from a starting point and returning to that point at the end of the work day.</p>	<p>CalRecycle added a definition of ‘hauler route.’ 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</p>

Comment Number	Received From	Question/Comment	Response(s)
			based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that 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.
3753	Pestrella, M., County of Los Angeles	<p>In addition to anaerobic digestion and composting, biosolids can also be processed through gasification. Biosolids that are gasified produce biochar, an organic soil amendment. Public Works recommends that CalRecycle include the land application of biochar produced from biosolids as a reduction of landfill disposal. The California Energy Commission's 2017 Integrated Energy Policy Report (2017 IEPR), published on April 16, 2018, states that the gasification of biosolids to produce biochar is a revenue source to promote the development of renewable natural gas (RNG) projects, which will be needed if jurisdictions are to meet the requirements to procure RNG transportation fuel per Section 18993.1(f)(2) .</p> <p>In addition, Part 503, Title 40 of the Code of Federal Regulations, Appendix B includes several acceptable pathogen treatment processes for biosolids. Public Works recommends that CalRecycle include the land application of biosolids processed through any of these processes.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(6) (B) Biosolids shall:</p> <ol style="list-style-type: none"> 1. Have undergone anaerobic digestion or composting, any of the pathogen treatment processes as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, or a thermal conversion process to produce biochar, as defined in Section 14513.5. of the Food and Agriculture Code, and, 	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO_{2e} per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
3754	Pestrella, M., County of Los Angeles	<p>Section 18984.4. Recordkeeping Requirements for Compliance with Organic Collection</p> <p>6. Comment(s):</p> <p>Public Works is concerned about requirement (a)(3)(D) of Section 18984.4 which states that the jurisdiction must provide the geographical areas served by the haulers, along with routes serviced, or a list of addresses served. Jurisdictions, through their franchise agreements and contracts, have committed to protecting proprietary information which may result in an economic disadvantage should the information be disclosed to our haulers' competitors.</p> <p>Section 18988.4. (a)(3)(A) similarly requires "copies of all reports required by haulers" be included in the Implementation Report. These reports include proprietary information which the jurisdiction may have committed to keeping secure as it contains trade secrets which may potentially be damaging to the haulers should the information be released.</p> <p>Public Works recommends removing the language stating "or a list of addresses served" from Section 18984.4 (a)(2)(D) and removing the language "copies of all reports required by haulers" in Section 18988.4. (a)(3)(A) in order to protect the haulers' proprietary information.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p>	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure. The proposed regulations provide for this.</p> <p>CalRecycle changed the requirement for a "written report" to a "written record" in 18995.1(c) to make clear that information gathered during inspections such as route reviews and compliance reviews is not required to be disclosed in a public report. These are written records that are to be maintained in the files of the local jurisdiction. To the extent that such information is valid confidential, proprietary, or trade secret information, there are protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow the appropriate withholding of such information from public disclosure by the jurisdiction. The proposed regulations, in Section 18991.5(f), were amended to provide for this.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(a) A jurisdiction shall include the following information and documents in the Implementation Record required by Section 18995.2 of this chapter:</p> <p>(1) A description of which collection method(s) it will use to comply with this article.</p> <p>(2) The geographical area for each collection method.</p> <p>(3) If the jurisdiction is using a service that requires the contents of containers provided by the jurisdiction to be transported to a high diversion organic waste processing facility, the jurisdiction shall at a minimum:</p> <p>(A) List all high-diversion organic waste processing facilities used by the jurisdiction.</p> <p>(B) Include copies of, quarterly and annual average mixed waste organic content recovery rates, for each of those facilities, as defined in Section 30.3.</p> <p>(C) List all approved haulers in the jurisdiction that are allowed to take organic waste to the jurisdiction’s identified high-diversion organic waste processing facility or facilities.</p> <p>(D) Include the geographical area the hauler serves or the routes serviced, or a list of addresses served</p>	
3755	Pestrella, M., County of Los Angeles	<p>Section 18984.5. Container Contamination Minimization</p> <p>This section indicates that if a jurisdiction is utilizing a two or three-container collection system, all collection routes must be reviewed quarterly for prohibited container contaminants. Due to the size of the County's geographical jurisdiction and the number of routes presently served, this presents an incredible burden on the County's labor and financial resources. For example, the residential franchise areas of unincorporated Los Angeles County have 3,383 miles of routes alone and this is only a subset of the waste collection accounts overseen by the County. Public Works recommends reducing the monitoring frequency requirement to not less than annually, which is a requirement that jurisdictions can more realistically satisfy. In addition, Public Works recommends shifting this requirement to sample a statistically representative sample of containers from each route, but not to sample every container on each route.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) A jurisdiction shall conduct a route review for prohibited container contaminants on randomly selected containers in a manner that results in a statistically representative sample of all collection routes being reviewed quarterly annually</p>	<p>CalRecycle agrees. The intent of the procurement requirement is to develop regional markets for recovered organic waste products.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. This is an example of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
3756	Pestrella, M., County of Los Angeles	<p>If a jurisdiction is informed by a solid waste facility operator that the waste collected by one of its haulers contains prohibited container contaminants, the regulations require a jurisdiction to physically inspect containers along route(s) that contaminants came from. Public Works recommends that the term “physically” be removed from the definitions to allow for jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p>	The term "physically" was removed from the regulatory language.

Comment Number	Received From	Question/Comment	Response(s)
		(c) (1) Investigate by physically inspecting containers along the route(s) that the contaminants came from to determine the sources of contamination and provide written notification, either by placement on organic waste containers, mailing education notices, or direct contact with generators, which shall, at a minimum, include information regarding the generator's requirement to properly separate materials into the appropriate containers and may include photographic evidence of the violation.	
3757	Pestrella, M., County of Los Angeles	<p>Section 18984.9. Organic Waste Generator Requirements It may not be feasible for commercial businesses to “prohibit their employees from placing organic waste in a container not designated to receive organic waste.” Commercial businesses can provide the education, signage, tools, and guidance on the proper separation of organic waste but cannot actually “prohibit” improper separation. Therefore, Public Works recommends that this requirement be reworded to require commercial businesses to “discourage” employees from placing organic waste in the incorrect containers.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions: (b) Generators that are commercial businesses shall also: (1) Provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are provided for customers, except for restrooms. The containers provided by the business shall conform with the containers provided through the organic waste recovery service provided by their jurisdiction. (2) Prohibit Discourage their employees from placing organic waste in a container not designated to receive organic waste as set forth in Sections 18984.1(a)(5) and 18984.2(a)(5) of this chapter. (3) Periodically inspect organic waste containers for contamination and inform employees if containers are contaminated and of the requirement to only use those containers for organic waste.</p>	The regulations already require education. CalRecycle disagrees with removing the term ‘prohibit’, because using this term clarifies that there are consequences for improper handling of organic waste.
3758	Pestrella, M., County of Los Angeles	<p>The regulations require organic waste generators, defined in Section 18982 (a)(48) as “a person or entity that is responsible for the initial creation of organic waste” to either subscribe to organic waste collection service, self-haul organic waste, prevent or reduce waste generation, manage organic waste on-site, or use community composting. Public Works recommends that the regulations should exempt certain organic waste generators, such as public parks and beaches, from these requirements without needing to apply for a waiver pursuant to Section 18984.11. It may be very difficult to communicate the requirements to separate organic waste to visitors at public parks and beaches and to prevent the public from placing prohibited container contaminants in the organic waste bin. In addition, the use of separate organic waste bins at public parks and beaches may result in scavenging.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: 	A change to the regulatory text is not necessary. CalRecycle acknowledges that contamination of organic waste at public parks and beaches may be a problem as there is no ability to monitor these containers. Organic waste is not required to be collected at public parks and beaches. CalRecycle removed proposed requirements considered in the informal process that would have required cities and counties to containers in public locations such as streets and parks.

Comment Number	Received From	Question/Comment	Response(s)
		(d) Organic waste generators at public parks and beaches are exempt from the requirements of this Article.	
3759	Pestrella, M., County of Los Angeles	<p>Section 18984.10. Property and Business Owner Responsibilities Section 18984.10. (c) indicates that property and business owners shall provide or arrange for access to their properties during all inspections conducted pursuant to Article 14 of this chapter. PublicWorks recommends that the regulations specify that this does not apply to individual residential units within commercial or multifamily residential properties, but only common areas where solid waste and recycling containers are stored or may be stored for general and staff use.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (c) Property and business owners shall provide or arrange for access to their properties, excluding the interior of each residential unit within the property, during all inspections conducted pursuant to Article 14 of this chapter (commencing with Section 18995). Residential containers can be inspected if they are placed in the designated area for collection. 	This section does not prohibit or authorize a jurisdiction to enter a common area. The language in question simply clarifies that these regulations do not provide new authority to enter a private living space. If a jurisdiction currently inspects common areas they are doing so under existing authority, which these regulations do not inhibit.
3760	Pestrella, M., County of Los Angeles	<p>Section 18984.11. Waivers and Exemptions Granted by a Jurisdiction Public Works recommends that the regulations clarify if the definition of “organic waste” that is required to be separated either at the source or at a high-diversion materials recovery facility and diverted from landfill includes organic waste collected from routine non-emergency cleanouts of flood control infrastructure including but not limited to dams, debris basins, and catch basins. Public Works recommends that jurisdictions be allowed to grant a waiver for organic waste collected from debris and catch basin cleanouts to exempt it from the requirements of this chapter. Because this organic waste accumulates in the stormwater system and is not disposed by any particular generator in a container, it is likely to contain significant contamination and is difficult to separate from other waste and recyclables.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (a) A jurisdiction may grant one or more of the following types of waivers to a generator of organic waste: (4) Flood Control Infrastructure Waivers (A) A jurisdiction may waive some or all of the requirements of this chapter for organic waste removed from routine non-emergency cleanouts of flood control infrastructure, including but not limited to dams, debris basins, and catch basins. 	This situation is already covered in Section 18984.13(b)(3). This section allows for disposal of sediment debris removed from dams, culverts, reservoirs, channels and other flood control infrastructure.
3761	Pestrella, M., County of Los Angeles	<p>Section 18985.1. Organic Waste Recovery Education and Outreach Section 18985.1. states that prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide education and outreach to organic waste generators that are provided a three-container or two-container organic waste collection service. Public Works recommends that the regulations specify that this requirement of the jurisdictions excludes non-local entities and local education agencies.</p> <p>☑ Proposed Regulatory Text and Recommended Changes/Revisions:</p>	Local jurisdictions should still provide education to non-local entities and local education agencies within their geographic boundaries, as they already are doing under AB 1826 and AB 341. It is Important for these entities to know what collection options are available locally. CalRecycle will also provide assistance to local education agencies in implementing programs. The regulations already provide that compliance with this provision by these entities would be enforced by CalRecycle.

Comment Number	Received From	Question/Comment	Response(s)
		(a) Prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide the following to organic waste generators, with the exception of non-local entities and local education agencies , that are provided a three-container or two-container organic waste collection service:	
3762	Pestrella, M., County of Los Angeles	<p>Solid waste facility operators are in direct contact with self-haulers and jurisdictions currently have no way of identifying a generator who is a self-hauler. Even in the future when/if we have requirements for self-haulers to report to the County, facility operators that see what materials the self-haulers are bringing are still in the best position to provide tailored messaging and information to self-haulers. We recommend giving solid waste facility operators the defined role of providing information regarding the requirements of Section 70.3 of this chapter to the self-haulers.</p> <p><input checked="" type="checkbox"/> Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(b) Prior to February 1, 2022, and annually thereafter, solid waste facility operators a jurisdiction shall provide to self-haulers information regarding the requirements of Section 18988.3 of this chapter.</p>	CalRecycle deleted requirements that jurisdictions specifically identify and educate self-haulers in response to this comment. Jurisdictions can meet the requirement to educate self-haulers by including information on self-hauling in their general education and outreach material provided to all generators. CalRecycle deleted language requiring solid waste facility operators to educate self-haulers as it would be overly burdensome and is outside the scope of what EAs monitor at solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction.
3763	Pestrella, M., County of Los Angeles	<p>Los Angeles County is a very linguistically diverse County. Within the unincorporated areas alone, there are many generators that are “Limited English Speakers”. Public Works is concerned that the regulations may require jurisdictions to provide the education and outreach materials in every language spoken by generators within a given jurisdiction.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(f) If more than five percent of a jurisdiction’s generators are defined as “Limited English Speaking Households,” or “linguistically isolated,” as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this Section in a the most common language or languages that will assure the information is understood by those generators and may provide the information in other languages, upon request from a generator.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3764	Pestrella, M., County of Los Angeles	<p>Section 18986.2. Local Education Agencies Requirements</p> <p>The requirements for local education agencies are not consistent with the requirements for commercial businesses, multifamily properties, and non-local entities. Unlike the other aforementioned groups, Section 18986.2. does not include requirements for local education agencies to prohibit the placement of organic waste in containers not designated for organic waste, and to periodically inspect collection containers for and inform employees of observed contamination. Public Works recommends including this requirement, but revising it to “prohibit” employees from placing organic waste in the incorrect containers to “discourage” this practice. It may not be feasible for local education agencies to “prohibit their employees from placing organic waste in a container not designated to receive organic waste.” Local education agencies can provide the education, signage, tools, and guidance on the proper separation of organic waste but cannot actually “prohibit” improper separation. Regardless, Public Works recommends that the</p>	CalRecycle has revised Section 18986.2 to reflect that local education agencies shall prohibit their employees from placing organic waste in the incorrect container.

Comment Number	Received From	Question/Comment	Response(s)
		<p>State create uniform requirements for all regulated entities, including local education agencies, so as to afford equal treatment.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ol style="list-style-type: none"> Local education agencies shall comply with the requirements of this chapter to prevent and reduce the generation of organic waste by: <ol style="list-style-type: none"> Subscribing and complying with the requirements of an organic waste collection service that meets the requirements of Article 3 of this chapter; or Self-hauling organic waste to a facility that processes source-separated organic waste in a manner that complies with the requirements of Article 7 of this chapter. Local education agencies shall also: <ol style="list-style-type: none"> Provide Provide containers for the collection of organic waste and nonorganic recyclables in all areas where disposal containers are located. The containers provided shall conform to the requirements of the containers provided through the organic waste recovery service to which the local education agency is subscribed. Discourage their employees and students from placing organic waste in containers not designated for organic waste as set forth in 30.1(a)(5) and 30.2(a)(5) of this chapter. Periodically inspecting organic waste containers for contamination and inform employees if containers are contaminated, and of the requirement to only use those containers for organic waste Local education agencies shall provide information to employees and students on methods for the prevention of organic waste generation, Nothing in this Section prohibits a local education agency from preventing waste generation, managing organic waste on site, or using a community composting site. 	
3765	Pestrella, M., County of Los Angeles	<p>Section 18988.3. Self-haulers of Organic Waste</p> <p>As written, the regulations require self-haulers to source-separate all organic waste generated on site. Self-haulers should not be held to more stringent standards than contracted haulers and should also be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ol style="list-style-type: none"> Generators of organic waste may, in compliance with Section 18988.1 of this Division self-haul their own organic waste. A generator who is a self-hauler of organic waste shall comply with the following: <ol style="list-style-type: none"> The generator shall source-separate all organic waste generated on site in a manner consistent with Sections 18984.1 and 18984.2 of this chapter. (1) The generator shall haul source-separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source-separated organic waste. 	CalRecycle revised Section 18988.3 in response to this comment to clarify that self-haulers should not be held to more stringent standards than contracted haulers and should be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(3) (2) The generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the jurisdiction.</p> <p>(A) The records shall include delivery receipts and weight tickets from the entity accepting the waste.</p> <p>(B) The record shall indicate the amount of material in cubic yards or tons transported by the generator to each entity.</p> <p>(C) Notwithstanding subdivision (b)(3)(A), if the material is transported to an entity that does not have scales on site, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.</p> <p>(4) (3) A self-hauler shall annually report the following to the jurisdiction in which it is located:</p> <p>(A) The total amount of source-separated organic waste in tons that was self-hauled; and,</p> <p>(B) The location or address of each entity that accepted self-hauled waste from the generator.</p> <p>(5) (4) A residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in subdivision (b)(3) and (b)(4).</p>	
3766	Pestrella, M., County of Los Angeles	<p>Section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program</p> <p>Section 18988.4. (a)(3)(A) requires "copies of all reports required by haulers" be included in the Implementation Report. These reports include proprietary information which the jurisdiction may have committed to keeping secure through their franchise agreements and contracts as these reports contain trade secrets which may potentially be damaging to the haulers should the information be released. Therefore, the regulations should not require copies of all reports to be included in the Implementation Report.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions <p>(a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the Implementation Record required by Article 14 of this chapter. Records maintained shall include but are not limited to copies of:</p> <p>(1) Ordinances, contracts, franchise agreements, policies procedures, or programs relevant to this Section.</p> <p>(2) A description of the jurisdiction's hauler program including:</p> <p>(A) Type of hauler systems the jurisdictions uses.</p> <p>(B) Type and conditions of approvals per type of hauler, and criteria for approvals, denials, and revocations.</p> <p>(C) Process for issuing, revoking, and denying written approvals.</p> <p>(D) Any requirements associated with self-hauling and back-hauling.</p>	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure. The proposed regulations provide for this.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(3) A record of hauler compliance with local ordinance(s) and the requirements of this article including the following information: (A) Copies of all reports required by haulers. (BA) Copies of reports from self-hauler as required by Section 18988.3. (CB) Copies of all written approvals, denials, and revocations. (b) All records required by this article shall include the date of action, the name of the hauler, and the type of the action taken by the jurisdiction.</p>	
3767	Pestrella, M., County of Los Angeles	<p>Section 18991.1. Jurisdiction Edible Food Recovery Program Public Works recommends that the regulations specify that local jurisdictions are not required to provide education and monitor compliance of edible food generators that are non-local entities and local education agencies. Because nonlocal entities and local education agencies do not report to local jurisdictions, CalRecycle is the best entity for managing the requirements of 18991.1. for these generators. CalRecycle is the entity that is tracking waivers and exemptions for these groups, and would be in the best position to educate, monitor, and conduct outreach to these generators.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions <p>(a) A jurisdiction shall implement an edible food recovery program that shall include the actions that the jurisdiction plans to take to accomplish the following: (1) Educate commercial edible food generators with the exception of nonlocal entities and local education agencies as set forth in Section 18985.2. (2) Increase the access of commercial edible food generators access with the exception of non-local entities and local education agencies to edible food recovery organizations and edible food recovery services. (3) Monitor the compliance of commercial edible food generators compliance with the exception of non-local entities and local education agencies as required in Article 14. (4) Increase edible food recovery capacity if the analysis required by Section 18992.1 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs.</p>	<p>Although jurisdictions will not enforce non-local entities or local education agencies, jurisdictions are still required to provide non-local entities and local education agencies with edible food recovery education and outreach pursuant to Section 18991.1 (a)(1) and Section 18985.2 of the regulations. CalRecycle would also like to clarify that jurisdictions are required to increase all commercial edible food generators' access to food recovery organizations and food recovery services including local education agencies and non-local entities located within the jurisdiction. In addition, it is clear from the definition of "non-local entity" and "local education agency" that they are not subject to the control of a jurisdiction's authority; therefore, is it implicit that jurisdictions are only to enforce on those they have authority over. CalRecycle is responsible for monitoring compliance and enforcement of those entities.</p> <p>Regarding the comment about CalRecycle being responsible for tracking waivers and exemptions for these groups and would be in the best position to educate, monitor, and conduct outreach to these generators, the regulatory text does not include commercial edible food generator waivers or exemptions.</p>
3768	Pestrella, M., County of Los Angeles	<p>Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program Public Works recommends that the regulations be revised to clarify that local jurisdictions are not required to satisfy recordkeeping requirements for edible food generators that are non-local entities and local education agencies.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions <p>(a) A jurisdiction shall include all documents supporting its compliance with Section 18991.1 in the Implementation Record required by Section 18995.2 of this chapter and shall also include at a minimum: (1) A list of commercial edible food generators with the exception of nonlocal entities and local education agencies in the jurisdiction that have</p>	<p>A change to the regulatory text is not necessary. Section 18996.5 and Section 18996.7 state that a jurisdiction does not have authority to take enforcement action against entities outside their boundaries or that are not subject to local solid waste control.</p>

Comment Number	Received From	Question/Comment	Response(s)
		arrangements with edible food recovery organizations or services. Nonlocal entities and local education agencies are to report to the Department, as appropriate.	
3769	Pestrella, M., County of Los Angeles	Section 18991.3. Commercial Edible Food Generators If a large event is held at a state-owned facility, such as a state park, please clarify that it is the responsibility of the State and not local jurisdictions to ensure compliance with Sections 18991.3. Commercial Edible Food Generators and Section 18997.2. Penalty Amounts.	To clarify, if the commercial edible food generator operating at the event or facility is subject to the jurisdiction's authority then it is the responsibility of the jurisdiction to monitor compliance and enforce. If the commercial edible food generator is not subject to a jurisdiction's authority, then is it CalRecycle's responsibility to monitor compliance and enforce.
3770	Pestrella, M., County of Los Angeles	Section 18992.1. Organic Waste Recycling Capacity Planning Public Works is concerned about the requirements for jurisdictions to verify that capacity is available to them through contracts, permits, franchise or guarantees of access documentation. Considering the significant shortfall in organic waste capacity statewide, it is inevitable that some jurisdictions will not have sufficient capacity available to them. <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: (a) (2) Identify the amount in tons of existing organic waste recycling infrastructure capacity, located both in the County and outside of the County, that is verifiably available to the County and jurisdictions located within the County. (A) A county can demonstrate the capacity is verifiably available to the county or its jurisdictions through a contract, permit, franchise, or other documentation of the following: <ol style="list-style-type: none"> 1. A guarantee of access to Identification of existing permitted or authorized capacity at a facility, activity, operation, or property that recovers organic waste. 2. A guarantee of access to Identification of new or expanded capacity at a facility, activity, operation, or property that recovers organic waste that will be available prior to the end of the reporting period. 	Thank you for the comment. CalRecycle revised the language to remove the two subsections and added Section 18992.1(a)(3)(A).
3771	Pestrella, M., County of Los Angeles	Cities or regional agencies are required to respond within 120 days to a County when contacted about the amount of organic waste in tons that will be disposed by the cities. Since counties are penalized financially for failing to estimate organic waste disposed, Public Works recommends including language within this section that ensures that counties are not liable if cities or regional agencies fail to respond within the given time frame. <input checked="" type="checkbox"/> Proposed Regulatory Text and Recommended Changes/Revisions: (b) A city or regional agency contacted by a county pursuant to subdivision (a) shall 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. (1) If a city or regional agency does not provide the necessary information to the County within the required timeframe, the County will not be held liable for failing to report on this jurisdiction's organic waste disposal.	CalRecycle will appropriately exercise enforcement discretion to hold appropriate parties responsible for regulatory violations. CalRecycle will not be changing the regulatory language in response to this comment.

Comment Number	Received From	Question/Comment	Response(s)
3772	Pestrella, M., County of Los Angeles	<p>The regulations state that the County shall conduct community outreach regarding locations being considered for new or expanded facilities. We recommend that this responsibility be the role of the jurisdiction (city if located within a city or County if located in a County unincorporated area) in which the new or expanded facility is being proposed, and not solely the role of the County regardless of the location of the new or expanded facility.</p> <p>In addition, the regulations state that haulers and owners of facilities, operations and activities that recover organic waste shall respond to the jurisdiction regarding potential new or expanded capacity at their facilities. However, the regulations as written do not require them to respond regarding “existing capacity” .</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) In complying with this Section the County, city, and/or applicable jurisdiction in which the proposed facility or activity will be located shall:</p> <p>(1). Consult with the Enforcement Agency and the local task force created pursuant to Section 40950 of the Public Resources Code on the status of locations for new or expanded solid waste facilities and locations.</p> <p>(2). Consult with haulers and owners of facilities, operations, and activities that recover organic waste including, but not limited to, compost facilities, in-vessel digestion facilities, and Publicly Owned Treatment Works to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities.</p> <p>(A) Entities contacted by a jurisdiction shall respond to the jurisdiction regarding existing, potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes.</p>	<p>The community outreach required in Section 18992.1(c)(3) is intended for the facilities or activities located within the county. Counties can work in coordination with cities to provide this outreach. Nothing precludes cities from providing outreach.</p>
3773	Pestrella, M., County of Los Angeles	<p>The requirements for jurisdictions to create a schedule for obtaining funding or financially supporting the expansion of organic waste recycling facilities is difficult for local jurisdictions to satisfy due to factors outside of their control. PublicWorks recommends that this language be revised to require jurisdictions to prepare a plan with strategies to ensure additional new or expanded capacity.</p> <p>In addition, according to SB 1383, CalRecycle, in consultation with CARB, shall adopt regulations that achieve the specified targets for reducing organic waste in landfills (i.e., a 50 percent reduction by 2020 and a 75 percent reduction by 2025). The current draft of the regulations states that a jurisdiction that lacks sufficient capacity shall “demonstrate how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period.” The way it is currently written, it appears that the regulations are requiring that all organic waste that is currently disposed be recovered (or planned for recovery) by the end of the report period.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(d) If a County determines that organic waste recycling capacity, in addition to the existing and proposed capacity identified pursuant to subsection (a), is needed</p>	<p>The current provisions are necessary to ensure that jurisdictions are taking specific steps to ensure access to capacity in the future. As has been stated by many stakeholders and jurisdictions, a distinct lack of organic waste recycling capacity will be a hinderance to achieving the organic waste reduction targets by 2025. The regulations are not only designed to achieve the target by 2025, they are, and must be, designed to achieve and maintain organic waste disposal 75 percent below the 2014 levels beyond the year 2025. This requires active planning by jurisdictions to identify future needs and secure capacity. The propose language is vague and subjective, it is unclear what minimum standard discussing ‘strategies’ could be held to.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>within that County, the County shall notify the jurisdiction or jurisdictions that lack sufficient capacity that each jurisdiction is required to:</p> <p>(1) Submit an implementation plan schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover an amount of the organic waste that is equivalent to a 50-percent reduction in 2014 organic waste disposal levels by 2020, and a 75-percent reduction by 2025 currently disposed by generators within their jurisdiction by the end of the report period set forth in Section 18992.3 of this article.</p> <p>(A) The implementation plan schedule shall include strategies for ensuring timelines and milestones for planning efforts to access additional new or expanded capacity, including, but not limited to:</p> <ol style="list-style-type: none"> 1. Obtaining funding for organic waste recycling infrastructure, including, but not limited to, modifying franchise agreements or demonstrating other means of financially supporting the expansion of organic waste recycling. 2. Identification of facilities, operations, and activities that could be used for additional capacity. 	
3774	Pestrella, M., County of Los Angeles	<p>“Identify” is spelled incorrectly.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) (2) Identify Identify proposed new or expanded organic waste recycling facilities that will be used to process the organic waste identified pursuant to subsection (a)(3).</p>	Thank you for the comment. CalRecycle corrected the spelling.
3775	Pestrella, M., County of Los Angeles	<p>Public Works recommends revising Section 18992.1, Subsection (d)(3) to clarify when Counties are required to notify jurisdictions that they have submitted the implementation schedule/report to cities.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) (3) The County shall notify the jurisdiction on or before the day that at the same time at the same time it submits the report to the Department required pursuant to Section 18992.3.</p>	Thank you for this comment. The language has been removed.
3776	Pestrella, M., County of Los Angeles	<p>In Section 18992.1(e), the regulations include “digestate and biosolids” within the organic waste material types that must be analyzed for capacity planning purposes. In the latest version of CalRecycle’s Characterization of Solid Waste in California report, these two materials are not included in the report. Since the regulations list the waste characterization study as a means to estimate the Countywide disposal, Public Works recommends that CalRecycle provide Counties with the disposal composition of these materials to assist in the capacity planning analysis.</p>	<p>CalRecycle has revised Section 18992.1(f) in response to this comment. The change adds another information source that can be used for this requirement. The change is necessary because statewide or local characterization studies typically do not characterize digestate/biosolid, as they are not a part of the commercial and residential waste stream. 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/biosolids. This data would be used in addition to either statewide or local characterization studies.</p> <p>The RDRS 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 onsite). Since this data will include large generators, CalRecycle will include this data in the capacity planning tool.</p>

Comment Number	Received From	Question/Comment	Response(s)
3777	Pestrella, M., County of Los Angeles	<p>Section 18992.2. Edible Food Recovery Capacity</p> <p>Section 18992.2 (a) (1) requires counties to “Estimate the amount of edible food that will be disposed of by commercial edible food generators . . .” . Currently, there are no tools to quantify the amount of edible food in the disposal stream. Therefore, Public Works recommends that CalRecycle provide counties with a methodology to estimate the amount of edible food within the disposal stream.</p>	<p>CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.</p>
3778	Pestrella, M., County of Los Angeles	<p>The regulations should not require counties to identify proposed new or expanded edible food recovery organizations if counties are already able to identify the amount of capacity at existing or new edible food recovery organizations that is necessary to recovery 20 percent of the edible food that is estimated to be disposed. In addition, the regulations should include a requirement for cities, regional agencies and edible food recovery organizations to respond to and provide the requested capacity data/information to counties or other applicable jurisdictions within a specified time frame for edible food capacity planning purposes.</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) Counties, in coordination with cities and regional agencies located within the county, shall:</p> <p>(1) Estimate the amount of edible food that will be disposed of by commercial edible food generators that are located within the county and jurisdictions within the county.</p> <p>(2) Identify existing capacity at edible food recovery organizations that is available to commercial edible food generators located within the county and jurisdictions within the county.</p> <p>(3) Identify proposed new or expanded edible food recovery organizations that will be used to process edible food identified pursuant to subsection (1).</p> <p>(4)(3) Identify the amount of capacity at edible food recovery organizations that is necessary to recover 20 percent of the edible food that is estimated to be disposed.</p> <p>(i) If a County determines that it lacks sufficient existing capacity at edible food recovery organizations to recover 20 percent of the edible food that is estimated to be disposed, the County shall identify proposed new or expanded edible food recovery organizations.</p> <p>(b) A city or regional agency contacted by a county pursuant to subdivision (a) shall 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.</p> <p>(c) Food recovery organizations contacted by a jurisdiction shall respond to the jurisdiction regarding potential new or expanded food recovery capacity at their</p>	<p>CalRecycle added language to the regulatory text in response to the comment that the regulations should include a requirement for jurisdictions and regional agencies to respond to and provide the requested capacity information to counties within a specified time frame for edible food capacity planning purposes. CalRecycle added language to the regulatory text specifying that if a jurisdiction or regional agency fails to provide the county with the information necessary to comply with Article 11 within 120 days, then the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3 If a jurisdiction fails to comply with its requirements under Article 11, then the jurisdiction could be subject to enforcement action.</p> <p>CalRecycle would also like to clarify that in order for a jurisdiction to be able to implement an effective edible food recovery program it is critical that they are familiar with the food recovery organizations and services that operate in the jurisdiction and identify proposed new or expanded edible food recovery organizations and food recovery services in case the demand for recoveries grows in their area. Even if the demand did not increase, this is still very important information to identify especially if a major food recovery organization or service stops operating in the jurisdiction. Each requirement in Section 18992.2 is critical to ensure that edible food recovery capacity is expanded, and that jurisdiction edible food recovery programs are successful. Each requirement in Section 18992.2 is in place to help ensure effective capacity planning measures are taken, which will ultimately serve to help keep edible food out of landfills, and be redirected to help feed people in need.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>facilities, operations, and activities within 120 days of the receiving the request from the jurisdiction.</p> <p>(b) (d) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then the each jurisdiction(s) within that county that lacks capacity shall.</p>	
3779	Pestrella, M., County of Los Angeles	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>The recovered organic waste products that may be procured to satisfy the target are limited to compost and renewable transportation fuel only. Therefore, the renewable electricity generated from the diverted organic waste would not count toward a jurisdiction’s procurement requirement. Public Works believes that CalRecycle should revise the regulations to also allow the procurement of renewable electricity created from recovered organic waste through anaerobic digestion, biomass conversion, or other technologies that demonstrate greenhouse gas and short-lived climate pollutant emissions reductions as specified in the regulations. Making this change to the regulations would help jurisdictions achieve their procurement targets and facilitate infrastructure development.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(f) For the purposes of this article, the recycled organic waste products that must be procured are:</p> <ol style="list-style-type: none"> Compost. Renewable transportation fuel Renewable electricity Any other recycled organic waste products approved by the Department <p>(g) The following conversion factors shall be used to convert tonnage in the annual recycled organic waste product procurement target for each jurisdiction to equivalent volumes of recycled organic waste products:</p> <ol style="list-style-type: none"> One ton of organic waste in a recycled organic waste product procurement target shall constitute: <ol style="list-style-type: none"> 19 diesel gallon equivalents, or “DGE,” of renewable transportation fuel 0.58 tons of compost. XX kilowatt-hours of renewable electricity 	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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.</p> <p>The IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
3780	Pestrella, M., County of Los Angeles	<p>Section 18994.1. Initial Jurisdiction Compliance Report and Section 18994.2. Jurisdiction Annual Reporting</p> <p>Public Works recommends that CalRecycle clarify that the jurisdictions’ reporting requirements under Article 13 Reporting exclude non-local entities and local education agencies not receiving services through the jurisdiction’s collection system.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p>	<p>A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(a) Each jurisdiction shall report to the Department on its implementation and compliance with the requirements of this chapter. Each jurisdiction shall report to the Department by February 1, 2022 the following information:</p> <p>(1) A copy of ordinances adopted pursuant to this chapter.</p> <p>(2) The date that the jurisdiction will ensure that all containers used by generators subject to the jurisdiction's authority (with the exception of nonlocal entities and local education agencies) will be in compliance with the container color requirements as specified in Section 18984.7.</p>	
3781	Pestrella, M., County of Los Angeles	<p>Public Works recommends that CalRecycle clarify that the jurisdictions' reporting requirements under Article 13 Reporting exclude non-local entities and local education agencies not receiving services through the jurisdiction's collection system.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Each jurisdiction shall report the following, relative to its implementation of the organic waste collection requirements of Article 3 of this chapter:</p> <p>(1) The type of organic waste collection service(s) provided by the jurisdiction to its generators with the exception of non-local entities and local education agencies.</p> <p>(2) The total number of generators that receive each type of organic waste collection service provided by the jurisdiction with the exception of non-local entities and local education agencies.</p>	<p>A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.</p>
3782	Pestrella, M., County of Los Angeles	<p>Section 18995.1. Jurisdiction Inspection and Enforcement Requirements Reporting requirements may require jurisdictions to provide information, such as customer lists, to CalRecycle that is considered confidential by hauler franchise agreements and contracts. The reporting requirements should be modified to allow for jurisdictions to keep such information confidential.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(c) A jurisdiction shall generate a written report for each inspection, route review, and compliance review conducted pursuant to this Chapter. Each report shall include, at a minimum, the following information unless such information is restricted by a confidentiality agreement:</p> <p>(1) Identifying information for the subject or subjects of the inspection, route review, or compliance review, such as, but not limited to:</p> <p>(A) The name or account name of each person or entity.</p> <p>(B) A description of the route and addresses covered by a route review.</p> <p>(C) A list of accounts reviewed for each compliance review.</p>	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure.</p>
3783	Pestrella, M., County of Los Angeles	<p>Section 18996.2. Department Enforcement Actions Over Jurisdictions Pursuant § 42653 of the Public Resources Code, CalRecycle and CARB, not local jurisdictions, are responsible for identifying the barriers to organic waste recycling, the status of new organics recycling infrastructure development, the commitment of state funding to support infrastructure expansion, the progress in reducing regulatory barriers to the siting of organics recycling facilities, the timing and effectiveness of policies that will facilitate the permitting of organics recycling</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>infrastructure, and the status of markets for the products generated by organics recycling facilities. Therefore, Public Works recommends that the regulations include additional allowances for jurisdictions and other entities that demonstrate a substantial “good faith” effort to comply with the regulations but are unable to do so due to extenuating circumstances.</p> <p>In addition, Public Resources Code § 42652.5 (4) states, “The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” Section 41825 states, “The board may review whether a jurisdiction is in compliance with Section 41780 in accordance with the requirements of this section at any time that the board receives information that indicates the jurisdiction may not be making a good faith effort to implement its source reduction and recycling element and household hazardous waste element.” Because the law allows CalRecycle to determine the progress of jurisdictions at least partially based on a good faith effort, the regulations should incorporate this allowance.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) If the Department finds that a jurisdiction is violating one or more of the requirements of this Chapter, and has not made a good faith effort to fulfill these requirements, then the Department may take the following actions:</p> <p>(1) Hold a public hearing, which, to the extent possible, shall be held in the local or regional agency’s jurisdiction, to determine whether or not the jurisdiction has failed to make a good faith effort towards compliance.</p> <p>(1) (2) Issue a Notice of Violation requiring compliance within 90 days. An extension may be granted for an additional 90 days, if the jurisdiction submits a written request to the Department within 60 days of the Notice of Violation’s issuance that includes:</p> <p>(B) The steps the jurisdiction will take to correct the violation, including demonstration that it can comply within 180 days of the Notice of Violation’s issuance date.</p> <p>(2) (3) The Department may extend the timeframe for a jurisdiction to comply beyond 180 days from the Notice of Violation issuance date by issuing a Corrective Action Plan (CAP) for up to 24 months, setting forth steps to achieve compliance, if the jurisdiction has demonstrated, that it has made a substantial good faith effort to comply and there are extenuating circumstances that have prevented it from complying.</p> <p>(A) A jurisdiction shall submit a written request for the extension at least 30 days prior to the Notice of Violation final compliance date. The request shall provide documentation demonstrating its substantial good faith effort to comply, and the extenuating circumstances which prevents it from complying, and identify the critical milestones that the jurisdiction would need to meet in order to comply within 24 months.</p>	<p>allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>1. If a jurisdiction claims that the cause of the delay is inadequate capacity of organic waste recovery facilities, it shall document the lack of capacity and demonstrate that it has provided service where possible and that it has only delayed compliance with this chapter for areas where service cannot be provided due to capacity limits. Implementation schedules, under Article 11, may be considered for purposes of developing a Corrective Action Plan; however, the Department may set compliance milestones other than those provided in the Implementation Schedule.</p> <p>(B) For the purposes of this section, “substantial good faith effort” means that a jurisdiction has taken all practicable actions to comply. Substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply with the Chapter, including, but not limited to, a failure to provide staff resources, failure to provide sufficient funding to assure compliance, or failure to adopt required ordinances.</p> <p>(C) For the purposes of this section, “extenuating circumstances” means that a delay in compliance has been caused by:</p> <ol style="list-style-type: none"> 1. Circumstances outside of a jurisdiction’s control; including acts of God and declared emergencies such as earthquake, fires, flooding, or delays in obtaining discretionary permits or other government agency approvals. 2. A long term infrastructure or capacity change which requires a corresponding longer length of time to achieve compliance. <p>(D) For the purposes of this section, “critical milestones” means all actions necessary for a jurisdiction to comply, including, but not limited to, receiving approval by decision-making bodies, permit application submittals and obtaining approvals, and tasks associated with the local contract approvals.</p> <p>(3) (4) A Corrective Action Plan shall be issued by the Department for no longer than 24 months and shall include compliance dates for each milestone that describe the tasks and timeframe the jurisdiction needs to take to achieve full compliance by a final compliance date. The Corrective Action Plan shall include the penalties that may be imposed if a jurisdiction fails to comply by the final compliance date and may also include penalties for failing to meet milestones by the specified dates.</p> <p>(b) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to fulfill its responsibilities or obligations as required by this Chapter, but is unable to fulfill those responsibilities or obligations, due to factors outside of its control, then the Department may consider a hardship allowance for said jurisdiction.</p>	
3784	Pestrella, M., County of Los Angeles	Section 18996.3. Department Enforcement When Jurisdiction Fails to Enforce As stated previously, Public Works recommends that the regulations include additional allowances for jurisdictions and other entities that demonstrate a	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its

Comment Number	Received From	Question/Comment	Response(s)
		<p>substantial “good faith” effort to comply with the regulations but are unable to do so due to extenuating circumstances.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) If a jurisdiction fails to enforce the requirements set forth in this chapter, and has not made a good faith effort to do so, the Department may take enforcement action against an entity pursuant to Section 18996.9 of this chapter and also enforcement action against the jurisdiction pursuant to this article after providing the jurisdiction with:</p> <p>(1) Written documentation of its lack of appropriate enforcement action.</p> <p>(2) A request to hold a Public Hearing, which, to the extent possible, shall be held in the local or regional agency’s jurisdiction, to determine whether or not the jurisdiction has failed to make a good faith effort towards compliance.</p> <p>(2) (3) A written request to take enforcement action against the entity pursuant to Article 14 of this chapter or evidence within 60 days that the entity is in compliance.</p> <p>(b) If the Department determines a good faith effort has not been made, the Department may seek administrative penalties against the jurisdiction pursuant to Article 16 if the jurisdiction fails to take enforcement action as requested pursuant to subsection (a) (2).</p> <p>(c) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to enforce the requirements set forth in this chapter, but is unable to fulfill those responsibilities or obligations, due to factors outside of its control, then the Department may consider a hardship allowance for said jurisdiction.</p>	<p>enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
3785	Pestrella, M., County of Los Angeles	<p>Section 18996.9. Department Enforcement Actions Against Entities</p> <p>As stated previously, Public Works recommends that the regulations include additional allowances for jurisdictions and other entities that demonstrate a substantial “good faith” effort to comply with the regulations but are unable to do so due to extenuating circumstances.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) The Department may take enforcement action against organic waste generators, including commercial edible food generators, haulers, and food recovery organizations and services, where a jurisdiction has failed to enforce this chapter and has not made a good faith effort to do so or where the entity is a non-local entity that is not a State agency or facility subject to enforcement under Section 18996.6 or a local education agency subject to enforcement under Section 18996.7.</p> <p>(b) If an entity has been found in violation, the Department shall:</p> <p>(1) For a first violation:</p> <p>(A) Hold a Public Hearing, which, to the extent possible, shall be held in the entity’s jurisdiction, to determine whether or not the entity has failed to make a good faith effort towards compliance. If the Department determines that a good faith effort has not been made, the Department shall issue Issue a Notice of Violation (NOV) requiring compliance within 60 days.</p>	<p>A change to the regulatory text is not necessary. When the Legislature enacted the Recycling of Commercial Waste (“MCR”) law (PRC Section 41649.3(h) and (i) and the Recycling of Organic Waste (“MORe) law(PRC Section 42649.82(g) and (h) both statutes expressly required that the Department evaluate these programs using the “good faith effort” standard contained in PRC section 41825.</p> <p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p> <p>Further, Making a good faith effort to achieve a unique jurisdiction target that fluctuates with annual generation is not compatible with the SB 1383 mandate to achieve a specific statewide organic waste disposal cap of 5.6 million tons on and after 2025. Implementation of the</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(B) If the violation continues after the NOV compliance date, the Department shall issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p> <p>(C) If the violation continues after the NOTC compliance deadline of 30 days, the Department shall commence action to impose a penalty on the entity no later than 90 days after the issuance of the NOTC.</p> <p>(2) For a second violation and all subsequent violations:</p> <p>(A) Issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply.</p> <p>(B) If the violation continues after the NOTC compliance deadline, the Department shall commence action to impose a penalty on the entity no later than 90 days after its determination of the violation.</p> <p>(c) The Department may grant extensions to the compliance deadlines set forth in subsection (b) if it makes the following findings:</p> <p>(1) The entity is making timely progress toward compliance, and</p> <p>(2) The entity's failure to comply within the deadline is due to:</p> <p>(A) Extenuating circumstances outside its control, including a correction to a long-term infrastructure or capacity change which requires a correspondingly longer length of time to achieve compliance. Examples of extenuating circumstances include acts of God such as inclement weather, and earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters, and delays in obtaining discretionary permits or other government agency approvals, but where the entity's actions or failure to act was not the cause of the delay</p> <p>(B) Limitations in infrastructure and the jurisdiction in which it is located is under a Corrective Action Plan (CAP) pursuant to Section 18996.2 due to long term infrastructure or capacity deficiencies.</p> <p>(d) The Department shall provide the following information in any Notice of Violation or other enforcement notices:</p> <p>(1) The account name, name, or names of each person or entity to whom it is directed. Notices must go to the legally responsible party, such as a business owner, service account holder, property owner, etc.</p> <p>(2) The list and description of the violations of this chapter, including the Section of this chapter being violated.</p> <p>(3) A compliance date by which the entity is to take specified action(s).</p> <p>(4) The penalty for not complying within the specified compliance date.</p> <p>(e) If an entity can demonstrate to the Department that it has made a good faith effort to comply with the requirements set forth in this chapter, but is unable to fulfill those responsibilities or obligations, due to factors outside of its control, then the Department may consider a hardship allowance for said entity.</p>	<p>prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
3786	Pestrella, M., County of Los Angeles	<p>Section 18997.1. Scope</p> <p>The proposed regulations impose requirements on Counties and cities that exceed the authority granted to CalRecycle by State law or are contrary to it.</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring "local jurisdictions to impose requirements on generators or other relevant entities within their</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Senate Bill 1383 does not provide CalRecycle with the authority to require local jurisdictions to impose penalties on residential or commercial generators for noncompliance. Section 18997.1 of the proposed regulations require jurisdictions to “adopt ordinance(s) or enforceable mechanisms to impose penalties that are equivalent or stricter than those amounts in Section 18997.2...” While SB 1383 grants CalRecycle the authority to “require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction,” this authority does not extend to the imposition of penalties. Section 42652.5. (a)(1) of SB 1383 only provides that CalRecycle “may authorize local jurisdictions to impose penalties on generators for noncompliance.” In requiring Counties and cities to impose steep penalties on residents and businesses for noncompliance with the regulations, CalRecycle would exceed its authority under the law. Therefore, Public Works recommends the proposed regulations be revised to delete any and all provisions that require Counties and cities to impose penalties on their residents or businesses. The language may be revised to authorize Counties and cities to do so, as they deem appropriate.</p>	<p>jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
3787	Pestrella, M., County of Los Angeles	<p>Section 18997.2. Penalty Amounts</p> <p>The monetary penalties for all Property and Business Owners should not be based on the proposed penalty severity levels listed in Section 18997.2 (b) (1) (2) and (3). The penalties for small businesses, economically disadvantaged communities, non-profit organizations, and other applicable entities should be calculated as a percentage of property value or gross receipts so as not to cause substantial hardship.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this Section, except in cases where these penalties may cause substantial hardship to small businesses, economically disadvantaged communities, non-profit organizations, or other applicable entities, and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b).</p> <p>(b) The penalty severity levels for all entities except those listed in (c) are as follows:</p> <p>(1) For a violation classified as Level 1, the amount of the base penalty may be \$50–\$500 per violation.</p> <p>(2) For a violation classified as Level 2, the amount of the base penalty may be \$100–\$200 per violation.</p> <p>(3) For a violation classified as Level 3, the amount of the base penalty may be \$250–\$500 per violation.</p> <p>(c) In cases where penalties may cause substantial hardship to small businesses, economically disadvantaged communities, non-profit organizations, or other applicable entities, a jurisdiction may impose penalties listed in Table 2 of this Section, which may be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (d). The penalties shall not exceed the penalty severity levels in subsection (b).</p>	<p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties.</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p> <p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>For Table 2, see original letter.</p> <p>(d) For certified small businesses, economically disadvantaged communities, nonprofit organizations, and other applicable organic waste generators may submit an application to the jurisdiction imposing penalties requesting the penalties to be waived or reduced due to substantial economic hardship.</p> <p>(1) For a violation classified as Level 0.1, the amount of the base penalty may be waived or reduced to XX percent of property value, XX percent of rental value, or XX percent of gross receipts, as applicable.</p> <p>(2) For a violation classified as Level 0.2, the amount of the base penalty may be waived or reduced to XX percent of property value, XX percent of rental value, or XX percent of gross receipts, as applicable.</p> <p>(3) For a violation classified as Level 0.3, the amount of the base penalty may be reduced to XX percent of property value, XX percent of rental value, or XX percent of gross receipts, as applicable.</p> <p>(e e) For the purposes of subsection (a), revoking, suspending, or denying a permit, registration, license, or other authorization shall be considered stricter than the penalties in this Section.</p>	
3788	Pestrella, M., County of Los Angeles	The definition of Tier Two Commercial Edible Food Generators in Section 18982 (a) (74) includes any state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet and any local education agency facility with an on-site food facility. The regulations should clarify that it will be the responsibility of the State and not the responsibility of local jurisdictions to assess and issue penalties against State agencies or local education agencies pursuant to Table 1.	It is clear from the definition of "non-local entity" and "local education agency" that they are not subject to the control of a jurisdiction's authority; therefore, is it implicit that jurisdictions are only to enforce on those they have authority over. CalRecycle is responsible for monitoring compliance and enforcement of those entities.
3789	Pestrella, M., County of Los Angeles	<p>Some requirements in this Section cannot feasibly be enforced through the assessment of penalties. For example, according to Table 1, an "organic waste generator, that is a commercial business, [that] fails to prohibit their employees from placing organic waste in a container not designated to receive organic waste" would be subject to penalties ranging from \$50 - \$200 per violation per day. The penalties listed in Table 1 for commercial businesses that do not provide education, signage, tools, and guidance on placing organic waste in the correct container pursuant to Section 18984.10 are feasible. However, local jurisdictions cannot feasibly determine if a commercial business is "prohibiting" or "discouraging" employees (as recommended by Public Works in comment 9) from placing organic waste in the incorrect container. Therefore, this violation should be removed from Table 1.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions: For Table 1, see original letter.</p>	<p>CalRecycle has revised section 18991.3 in response to this comment. Section 18991.3 allows for a commercial edible food generator to demonstrate the existence of extraordinary circumstances beyond its control that make compliance impractical. This was necessary to provide relief from enforcement if the edible food generator has proved the jurisdiction failed to increase edible food recovery capacity as required in Section 18991.1 or was unable to comply due to acts of God such as earthquakes, wildfires, flooding and other emergencies or natural disasters. Also, Section 18995.4 allows the jurisdiction to extend compliance deadlines if it finds that extenuating circumstances beyond the control of the respondent make compliance within the deadlines impracticable, such as edible food recovery capacity deficiencies.</p> <p>In addition, the penalty tables in Section 18997.2 were deleted from the rulemaking and discretion is left to local jurisdictions to set penalties consistent with applicable limitations in the Government Code.</p> <p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>
3790	Pestrella, M., County of Los Angeles	<p>Section 18997.3. Department Penalty Amounts According to Table 8, the jurisdiction that fails to assess penalties on an “organic waste generator, that is a commercial business, [that] fails to prohibit their employees from placing organic waste in a container not designated to receive organic waste” would be subject to penalties up to \$2,500 per day. The penalties listed for jurisdictions failing to assess penalties on commercial businesses that do not provide education, signage, tools, and guidance on placing organic waste in the correct container pursuant to Section 18984.10 are feasible. However, local jurisdictions cannot feasibly determine if a commercial business is “prohibiting” or “discouraging” (as recommended by Public Works in comment 9) employees from placing organic waste in the incorrect container. Therefore, this violation should be removed from Table 8.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: For Table 8, see original comment letter. 	<p>CalRecycle has revised section 18991.3 in response to this comment. Section 18991.3 allows for a commercial edible food generator to demonstrate the existence of extraordinary circumstances beyond its control that make compliance impractical. This was necessary to provide relief from enforcement if the edible food generator has proved the jurisdiction failed to increase edible food recovery capacity as required in Section 18991.1 or was unable to comply due to acts of God such as earthquakes, wildfires, flooding and other emergencies or natural disasters. Also, Section 18995.4 allows the jurisdiction to extend compliance deadlines if it finds that extenuating circumstances beyond the control of the respondent make compliance within the deadlines impracticable, such as edible food recovery capacity deficiencies.</p> <p>In addition, the penalty tables in Section 18997.2 were deleted from the rulemaking and discretion is left to local jurisdictions to set penalties consistent with applicable limitations in the Government Code.</p> <p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>
6325	Pinon, F., City of Reedley	<p>The City of Reedley is extremely concerned about critical points that hinder our ability to implement the proposed regulation. The City of Reedley is a Disadvantaged community, with portions classified as Severely Disadvantaged, in the heart of the San Joaquin Valley. This regulation will create a financial hardship for our community as it WILL require us to increase solid waste rates to our residents. There is truly NO easy or economical solution to compliance of this regulation.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
6326	Pinon, F., City of Reedley	A separate organics can and yet another truck route down every street and alley would increase solid waste rates substantially to our residents and seems a step in the wrong direction when addressing our air quality concerns, not to mention the additional wear and tear to our streets.	CalRecycle has revised section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in section 18993.3(c)(2) and therefore agrees with the proposed revision.
6327	Pinon, F., City of Reedley	Disposing of organics into the existing green waste can will create strong odors and attract animals, insects, and maggots. If the organics waste is bagged up and then deposited into the green waste cans, our com poster has stated they will NOT take the product if it has bags in it. Additionally, we currently dump our green waste on the ground at a transfer point and the com poster hauls it away due to the far distance of the compost facility from our City. If organics are placed in the green waste can, the County of Fresno has stated that we can no longer dump the green waste on the ground for transfer and our own garbage trucks will have to haul directly to the compost facility which is more than one hour away from our City. This will not only increase the amount of our trucks on the road, but we will have to purchase additional trucks, hire additional drivers and all of the additional cost will have to be passed on to our residents, many of whom have household incomes at or below the poverty level.	A change to the regulatory text is not necessary. If organics are already being placed in one container, then moving them to another container is not going to increase odors, etc. The regulations do not force food waste to be placed in the green container. In addition, the City should already be addressing this with businesses as part of their existing implementation of AB 1826. The regulations will likely result in additional costs for ratepayers, but the City should be planning now for that increase.
6046	Pirie, G., County of Marin	Recommend removing section 18083(c): existing regulations already give LEAs authority to require operators to perform measurements and load checking.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.

Comment Number	Received From	Question/Comment	Response(s)
6047	Pirie, G., County of Marin	Recommend removing section 18083(c): the time needed to carryout this provision could be better spent reviewing other activities that may have a greater effect on environmental health and safety	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
6048	Pirie, G., County of Marin	Recommend removing section 18083(c): the LEA determination of compliance is already addressed in regulation with loadcheck requirements. Any requirements should leave the option of observance to the LEA	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
6049	Pirie, G., County of Marin	Recommend removing section 18083(c): Reference to the function in the EPP should be deleted.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
6050	Pirie, G., County of Marin	Recommend removing section 18083(c): Recommend new language: "the EA may request the operator perform a measurement at any time, during a routine inspection. References to the function in the EPP should be deleted."	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
6051	Pirie, G., County of Marin	Revise LEA determinatin of Less Frequent Service: Re Section 18984.11(a)(3)(A)(1) -- "the jurisdiction, or its authorized hauler, demonstrates to the Solid Waste Local Enforcement Agency that less frequent collection than required by Section 17331 of Title 14 of the California Code of Regulations will not result in the propogation of vectors or other public health and safety, or nuisance issues.	CalRecycle has revised this section in response to comments. The section was revised to replace "Solid Waste Local Enforcement Agency" with "Enforcement agency," and better clarify the LEAs role and responsibility.
6052	Pirie, G., County of Marin	Section 18984 conflicts with the section that it cites and the authority involves many other agencies that have oversight over collection services.	CalRecycle has revised this section in response to comments. The section was modified to better clarify the LEAs role and responsibility as it pertains to this section. Section 17331 allows the local health officer to grant a waiver for the storage of waste for less than seven days. Whereas, Section 18984.11 (a)(3) (A)(1) will allow the jurisdiction, in consultation with the LEA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the LEA in this section gives them the opportunity to provide input before a jurisdiction grants a waiver. The jurisdiction or authorized hauler would demonstrate to the LEA that the longer storage of waste is done in a manner that would not cause the receiving solid waste facility or operation to

Comment Number	Received From	Question/Comment	Response(s)
			be in violation of any applicable state minimum standards. It would be the jurisdiction's responsibility to (among other things) review and consider the franchise hauling agreements, city/county code, the public health and safety, and the LEAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.
6053	Pirie, G., County of Marin	Re: Section 18984 -- the section indicates the local health officer determination and is appropriate	CalRecycle has revised this section in response to comments. The section was modified to better clarify the LEAs role and responsibility as it pertains to this section. Section 17331 allows the local health officer to grant a waiver for the storage of waste for less than seven days. Whereas, Section 18984.11 (a)(3) (A)(1) will allow the jurisdiction, in consultation with the LEA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the LEA in this section gives them the opportunity to provide input before a jurisdiction grants a waiver. The jurisdiction or authorized hauler would demonstrate to the LEA that the longer storage of waste is done in a manner that would not cause the receiving solid waste facility or operation to be in violation of any applicable state minimum standards. It would be the jurisdiction's responsibility to (among other things) review and consider the franchise hauling agreements, city/county code, the public health and safety, and the LEAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.
6054	Pirie, G., County of Marin	Re: Section 18984 -- LEA would not want to be in conflict with other documents that may regulate or stipulate collection frequency requirements - city/county code, franchise hauling agreements, etc.	CalRecycle has revised this section in response to comments. The section was modified to better clarify the LEAs role and responsibility as it pertains to this section. Section 17331 allows the local health officer to grant a waiver for the storage of waste for less than seven days. Whereas, Section 18984.11 (a)(3) (A)(1) will allow the jurisdiction, in consultation with the LEA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the LEA in this section gives them the opportunity to provide input before a jurisdiction grants a waiver. The jurisdiction or authorized hauler would demonstrate to the LEA that the longer storage of waste is done in a manner that would not cause the receiving solid waste facility or operation to be in violation of any applicable state minimum standards. It would be the jurisdiction's responsibility to (among other things) review and consider the franchise hauling agreements, city/county code, the public health and safety, and the LEAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.
6055	Pirie, G., County of Marin	Re: Section 18984 -- Frequency of collection determinations could have an impact on franchise haulers and facilities that would receive the material after longer period of storage time in a residential/commercial cart, often a mix of green and food material. Adequacy of reduced frequency must include criteria/determining factors such as material type (green, or food and green), processing facility able to receive, process quickly. Approvals should also include criteria if the frequency, material type, receiving facility changes after initial approval.	CalRecycle has revised this section in response to comments. The section was modified to better clarify the LEAs role and responsibility as it pertains to this section. Section 17331 allows the local health officer to grant a waiver for the storage of waste for less than seven days. Whereas, Section 18984.11 (a)(3) (A)(1) will allow the jurisdiction, in consultation with the LEA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the LEA in this section gives them the opportunity to provide input before a jurisdiction grants a waiver. The jurisdiction or authorized hauler would demonstrate to the LEA that the longer storage of waste is done in a manner that would not cause the receiving solid waste facility or operation to be in violation of any applicable state minimum standards. It would be the jurisdiction's responsibility to (among other things) review and consider the franchise hauling agreements, city/county code, the public health and safety, and the LEAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.
6056	Pirie, G., County of Marin	Re: Section 18984 -- Recommendation: city or county jurisdiction may allow collection frequency waivers with approval of LEA or Environmental Health Director,	CalRecycle has revised this section in response to comments. The section was modified to better clarify the LEAs role and responsibility as it pertains to this section. Section 17331 allows the local

Comment Number	Received From	Question/Comment	Response(s)
		Local Health Office, and does not conflict with franchise hauling agreements or solid waste facilities permits or operational state minimum standards.	health officer to grant a waiver for the storage of waste for less than seven days. Whereas, Section 18984.11 (a)(3) (A)(1) will allow the jurisdiction, in consultation with the LEA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the LEA in this section gives them the opportunity to provide input before a jurisdiction grants a waiver. The jurisdiction or authorized hauler would demonstrate to the LEA that the longer storage of waste is done in a manner that would not cause the receiving solid waste facility or operation to be in violation of any applicable state minimum standards. It would be the jurisdiction's responsibility to (among other things) review and consider the franchise hauling agreements, city/county code, the public health and safety, and the LEAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.
6057	Pirie, G., County of Marin	<p>Funding for local jurisdictions the are currently unfunded in the proposed regulations for education, outreach, implementation: Article 4, Education and Outreach, Edible Food Implemenation etc. The fiscal analysis indicates there will be a cost to local agencies. There is discussion that some costs can be addressed by services rates to customers receiving garbage or recycling service. Not all costs from can be directly passed through from collection service programs (rate increases) to Environmental Health Departments managing the edible food oversight (education, enforcement, permitting, reporting etc.)</p> <p>What funding will be available from Cal Recycle for program impemenation that is currently unfunded?</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
1191	Potashner, Eric, Recology	<p>Loadchecking: Contamination in Source Separated Organic Waste [Sections 17409.5.7, 17867(a)(4), 20901]</p> <p>The draft loadchecking requirements of one loadcheck per 500 tons of source separated organic waste received per operating day far exceeds existing random loadchecking frequency approved under Title 14 for several Recology organics facilities. Moreover, the proposed regulations also require at least one random loadcheck per day for each source sector. Recology compost facilities receive inbound loads that contain combined material from different sectors, making this requirement difficult to meet.</p> <p>These proposed requirements will be overly burdensome on operations and will necessitate additional resources to meet the performance and reporting of the new standard. These increased resources will ultimately translate into higher rates at the gate of compost and anaerobic digestion (AD) facilities. We suggest the random loadchecking frequency for facilities that receive source separated organics be once</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>

Comment Number	Received From	Question/Comment	Response(s)
		per seven day operating week and the requirement to loadcheck by source sector be removed.	
1192	Potashner, Eric, Recology	<p>Loadchecking: Remnant Organic Material in the Gray Container Collection Stream [Section 17409.5.11]</p> <p>Similarly, the draft loadchecking requirements for the gray container collection stream, of one loadcheck per 500 tons of gray container waste per operating day, is too onerous. The necessary additional headcount and required physical space to perform frequent loadchecks is overly burdensome and would add significant operational costs. We suggest that transfer/processing operations that are sending source separated organics to a certified compost or AD facility, should be required to loadcheck gray container collection stream waste once per seven day operating week.</p>	CalRecycle has deleted the loadchecking requirement Section 17409.5.11 in response to comments.
1193	Potashner, Eric, Recology	<p>Measuring level of contamination in recovered organics and level of organics in residuals [Sections 17409.5.2 -17409.5.5]</p> <p>Recology, recognizes that the Department is mindful to ensure that processing facilities are truly recovering as much source separated organic waste as possible, however we feel the current draft requirements and reporting obligations are too burdensome.</p> <p>It is in the best interest of a facility that receives source separated organics to increase the amount of organic material recovered to create a marketable product. Moreover, it is in the best interest of a facility to decrease the amount of residual as much as possible to limit disposal costs. Market demand and business systems will drive processing efficiency such that requiring these measurements based on a precise protocol, as written in the draft regulations, is not necessary.</p>	<p>CalRecycle has revised Sections 17409.5.2 -17409.5 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period (which is on a quarterly basis), instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. In order to achieve these targets, the measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility.</p>
1194	Potashner, Eric, Recology	Moreover, the required type analysis and measuring protocols of post-processed materials is far too onerous to be completed each operating day. Since our incoming feedstock and processing techniques do not change significantly each day, the additional effort and cost of implementing the proposed sampling frequency is unnecessary.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The operator will now be taking composite samples for 10 consecutive days per reporting period. Using 10 consecutive days instead of daily 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 get the needed data.

Comment Number	Received From	Question/Comment	Response(s)
			Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.
1195	Potashner, Eric, Recology	Recology suggests that testing and analysis of residual material be conducted once per operating week.	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. The operator will now be taking composite samples for 10 consecutive days per reporting period, which is on a quarterly basis. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
1196	Potashner, Eric, Recology	Tracking land application - Recology is supportive of the language regarding land application that ties it to the current contamination and application rate standards. However, it is unclear whether the reporting requirements for solid waste facilities would capture material that is ultimately land applied. Excessive land application of highly contaminated material is already a problem in areas that lack sufficient organics processing infrastructure and regulatory oversight. This problem will only be exacerbated when even more organic material will need to be recycled under SB 1383. Recology strongly suggests that more stringent land application tracking, reporting, and control provisions be added to the draft regulations to curb abuse of land application practices.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements. The EA verification requirement was amended to add the requirement that LEAs perform visual inspections to verify compostable material that will be sent off site to any destination other than a permitted solid waste facility or operation complies with the physical contamination requirement in existing land application definition.
4092	Prinz, LGVSD	Article 2 section 18983.1(b)(6)(B)(1) - This section delineates activities which are deemed to be "recovery" and thus a reduction in landfill disposal. This section includes biosolids land application and references Appendix B of the federal part 503 regulations, which stipulate technology and other standards for both Class B and Class A pathogen reduction necessary for land application. The language in this section of the draft regulatory text, however, specified only anaerobic digestions and compost as recovery activities. Appendix B provides detail on a suite of Class B and Class A pathogen reduction technologies, including far more options for achieving each Class, all of which are deemed equivalent to anaerobic digestion or composting. None of the treatment processes delineated in Appendix B would generate methane. The greenhouse gas reduction achieved via land application rather than landfilling is the same regardless of the technology employed to meet the pathogen reduction and vector attraction reduction criteria. The methane	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>

Comment Number	Received From	Question/Comment	Response(s)
		reduction is realized in the avoidance of landfilling not by the process utilized to treat biosolids. While it is true that most biosolids in California undergo either anaerobic digestion and/or composting, other compliant technologies are also utilized and entities should not be penalized for using them. LGVSD strongly urges CalRecycle to replace the words "...anaerobic digestion or composting..." with "...one of the processes..." In support of this argument, please refer to the BEAM model at this link https://casaweb.org/wp-content/uploads/2015,12/1-BrownetalEST-GHGCalculator19.pdf Which has been adopted by the Canadian Ministries of the Environment as a means to quantify the climate change mitigation benefits of biosolids land application .	
4093	Prinz, LGVSD	Article 2 section 18983.1 © - Includes "...or any other disposal of waste as defined in Section 40192© of the Public Resources Code.", in the definition of Landfill. This is a very broad definition and seems to limit the disposition to organic waste deposited on land. We believe this is an overly restrictive definition, and will create confusion because of the inclusion of technologies other than landfilling in the definition of landfill)by virtue of the cross-reference to PRC Section 40192(s)). We request that CalRecycle clarify the scope of this definition.	It is unclear from the comment what "technologies" the commenter is referring to or what clarity they are seeking as to the scope of this section. To the extent the comment is addressing land application of compostable material, that activity is specifically identified as a reduction in landfill disposal if it meets the conditions of the section. To the extent the comment is addressing surface disposal sites at wastewater treatment plants, that would be considered landfill disposal under this section unless it meets the requirements of land application of biosolids under this section or qualifies as an alternative technology that constitutes a reduction in landfill disposal under Section 18983.2.
4094	Prinz, LGVSD	Article 6 Section 18987.2 (a)(1) - The language requires all biosolids produced at any wastewater treatment plant to be treated via anaerobic digestion and/or composting and sent for land application. In addition to other treatment technologies as mentioned in comment 1 above, there are also other end uses employed which would be disallowed under this requirement. California has two incinerators and roughly five surface disposal sites located at wastewater treatment plants. None of the sludge produced at those facilities would ever be transported off site and would neither be landfilled or land applied and thus would seem beyond the purview of these regulations. It would be cost prohibitive to require these facilities to change technology and management practices.	CalRecycle has deleted Section 18987.2 in response to comments.
4095	Prinz, LGVSD	Similarly, it is imperative that all treatment options in 40 CFR part 503 Appendix B (Class A and Class B) be allowed and viewed as "recovery" (not just anaerobic digestion and composting). Treatment technologies are themselves dynamic and emerging resulting in alternative treatment and final disposition of biosolids. For example, thermal processes can produce energy and biochar. These technologies should be encouraged, not excluded as the language in this section appears to do. Dried biosolids have long been used effectively as alternative fuel at cement kilns in place of fossil-based fuels. We recommend all treatment technologies specified in Appendix B of 40 CFR part 503 which result in land application or land reclamation should be counted as a reduction in landfill disposal. Existing biosolids management practices whereby biosolids do not leave the site should be excluded from these regulations. And emerging technology which may result in energy production (thermal) or avoid fossil-based fuels (cement kilns), but which do not send biosolids to a landfill should be encouraged.	CalRecycle understands the importance of the various pathogen treatment processes provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emissions equivalent to the baseline of 0.30 MTCO _{2e} per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.

Comment Number	Received From	Question/Comment	Response(s)
4096	Prinz, LGVSD	Additionally, our understanding is that CalRecycle does not intend (and lacks the authority) to ban any organic waste stream from landfills. Rather, future use was to be negotiated between a wastewater plan and their jurisdiction of origin. We request that these regulation be revised to explicitly articulate that approach.	Comment noted. Section 18987.2 was removed from the regulations. The regulations do not ban any organic waste stream from landfills. This is prohibited in statute and it is therefore unnecessary to explicitly articulate this.
4097	Prinz, LGVSD	We recommend the following revisions to this section: Sectio 18987.2 Biosolids and Sewage Sludge Handling at a POTW (a) Biosolids generated at a POTW shall be: (1) Treated and managed in accordance with the Land Application, Incineration, or surface disposal requirements specified in 40 CFR part 503, (2) Transported to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 18983.1(b) of this division, (3) Notwithstanding subdivision (a)(1), sewage sludge and biosolids when it is not possible for them to adequately treated and sent for additional processing or recovery may be sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the regional, state, and federal agencies having appropriate jurisdiction, or; (4) be treated and managed in other approved manners.	CalRecycle has deleted Section 18987.2 in response to comments.
4098	Prinz, LGVSD	Article 9 Section 18990.1©(3) seems inconsistent with the language added to s. 18990.1 (a&b) which restricts local ordinances such that they may not impede organics recycling. Sub ©(3) seems to supersede that restriction. Clarity or revision of this language is requested to ensure an open market across California for recycling.	<p>A. The requested changes to the regulatory text are not necessary. However, CalRecycle is adding additional language to Section 18990.1(b)(1) to further clarify its meaning in light of comments received regarding it. Article 9, Sections 18990.1 (a) and (b) are not contradictory. 18990.1 (a) clarifies that it does not limit a jurisdiction in adopting more stringent standards than the ones outlined in this chapter. The purpose of the specific limitations set forth in paragraphs 1-5 of 18990.1 (b) are to ensure that jurisdictions do not impose restrictions on the movement and handling of waste and waste-derived recyclables that would interfere with or prevent meeting the organic waste recovery targets established in SB 1383.</p> <p>B. Article 2, Section 18983.1 (b)(6)(b) clarifies that land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards. 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. While this regulation defines land application as 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 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. The additional language will ensure that such restrictions can be reviewed on a case-by-case basis to determine if they are actually necessary and tailored to protect the public health and safety, or if they are actually unnecessary and overbroad restrictions.</p> <p>CalRecycle added clarifying language to this section to indicate that Article 9 section 189901 (c) (3) provides that this section does not prohibit a jurisdiction from superseding or otherwise affecting the land use authority of a jurisdiction, including, but not limited to, planning, zoning, and</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>permitting, or an ordinance lawfully adopted pursuant to that land use authority consistent with this section.</p>
4099	Prinz, LGVSD	<p>Article 12 Section 18993.1(f) defines eligible recovered organic waste products which satisfy the procurement requirements of s 18993.1 (e a Sub (f)(1) stipulates that compost is an eligible product. We assume this includes biosolids compost but request explicit confirmation of that. Furthermore, there are many other biosolids products which should be considered as eligible recovered organic waste products. A jurisdiction should be given broad latitude in meeting this requirements and all biosolids products meeting the land application requirements of 40 CFR part 503 should be eligible.</p>	<p>The current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target.</p> <p>CalRecycle disagrees with adding any products that include biosolids, that don't meet the above criteria. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors</p>
4100	Prinz, LGVSD	<p>Article 12 Section 18993.1(f) sub (f)(2) stipulates that renewable transportation fuel is also an eligible recovered organic waste product. While we support the intent of this requirement to help create end markets, we question the definition of Renewabel Transportation Fuel in Article1 18982(a)(62) which requires the fuel be derived "...from organic waste diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste." Does this exclude renewable transportation fuel which is derived from sewage sludge anaerobic digestion alone, with co-digestion? We trust that is not the intnet, since anaerobically digesting sewage sludge, land applying the resultant biosolids, and producing low carbon transportation fuel is certainly consistent with the requirements of SB 1383 and these regulations. All sewage sludge which is anaerobically digested could be considered to be diverted from landfills. Please clarify whether the intent of the language is to include all sewage sludge and co-digested materials under this eligibility requirement. Alternatively, we repectfully request this definition be amended to read: "...gas derived from organic waste processed in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23.</p>	<p>CalRecycle disagrees with the commenter's argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction's procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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. For the reasons noted above, gas generated from the inflows of a sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.</p> <p>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.</p>
4101	Prinz, LGVSD	<p>Article 12 Section 18993.1(f) (2) - we also request than any other beneficial uses of methane be deemed eligible to qualify as fulfilling the procuremnet obligations. This includes pipeline injection, on-site power production of renewable transportation fuel. All should be deemed to be recovered organic waste products and eligible to satisfy the procurement requirements</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible</p>

Comment Number	Received From	Question/Comment	Response(s)
			procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target.
4102	Prinz, LGVSD	2014 Waste Characterization Table - Please confirm that this Table has been updated to include biosolids data from 2014, since this serves as the baseline upon compliance with the draft regulations is based. DUPLICATE 9009, 4102, 3143, 3165, 6324	The table has not been updated. For the purposes of these regulations, the biosolids data were gathered from US EPA and the California Association of Sanitation Agencies. For 2014, the reported number was 173,000 dry metric tons (ADC 113,000 and landfilled 60,000).
3040	Purtee, J., City of Palmdale	For example, City staff and staff of our franchised hauler are going out encouraging businesses to divert their organic waste and due to the increased costs to do so, it has been very difficult to convince the businesses to add to their employee workload for a program that will cost them more than if they did nothing.	A change to the regulatory text is not necessary. The comment is noting that businesses have not been complying with organic waste recycling requirements, but those requirements are pursuant to AB 1826, not SB 1383. The SB 1383 regulations require jurisdictions to take enforcement action against non-compliant generators.
3041	Purtee, J., City of Palmdale	For residential programs, out of necessity we have cart colors that are not in compliance with the proposed cart color regulations and it will be very costly and confusing to change it.	<p>The regulations provide that a jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>A change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
3042	Purtee, J., City of Palmdale	<p>Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3043	Purtee, J., City of Palmdale	<p>Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Palmdale and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade"</p>	<p>SB 1383 provided statutory authority for jurisdictions to charge fees to offset the costs of implementing the proposed regulations. In addition, CalRecycle is looking into opportunities for providing supplemental funding to assist jurisdictions in complying with these mandates.</p>

Comment Number	Received From	Question/Comment	Response(s)
		proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.	
3044	Purtee, J., City of Palmdale	Enforcement: These regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face.	Comment noted, the comment does not recommend a regulatory change.
3045	Purtee, J., City of Palmdale	Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
3046	Purtee, J., City of Palmdale	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding. The City of Palmdale further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, were a fee to survive scrutiny under	CalRecycle has determined that procurement requirements are necessary to achieve the statutory organic waste diversion targets by ensuring an end use for processed organic waste. In addition, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that

Comment Number	Received From	Question/Comment	Response(s)
		<p>Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Palmdale requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
3679	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The Task Force recognizes the significant responsibility CalRecycle has under State law to achieve the Statewide 75 percent “recycling” goal by 2020, reduce organic waste disposal by 75 percent by 2025, support the Air Resources Board in reducing climate pollutants, and the limited time granted by the State Legislature to achieve these goals. However, while the Task Force strongly supports efforts to reduce climate pollutants, the Task Force is very concerned about the approach that CalRecycle has selected, which places a tremendous burden and responsibility on counties and cities (more than any other stakeholder group, including, but not limited to, state agencies, public and private colleges and universities, school districts, local education agencies and non-local entities as defined in Article 1, Section 18982 (a) (40) and (42), respectively, etc.), while relying on extremely prescriptive requirements, excessive “bean counting” and reporting, and requiring counties and cities to impose steep penalties on residents and businesses. State law, Section 40001(a) of the Public Resources Code (PRC), declares that “the responsibility for solid waste management is a shared responsibility between the state and local governments (emphasis added).” Furthermore, SB 1383 recognizes the shared responsibility “the waste sector, state government, and local governments” have in achieving the organic waste reduction goals for 2020 and 2025, and thus requires CalRecycle to analyze the progress made by the three sectors, in that order, including “commitment of state funding”, in achieving the said goals {PRC Section 42653. (a)} (emphasis added). However, under the proposed regulations, the responsibility weighs much more heavily on counties and cities, including programmatic and penalty requirements, than on state agencies, school</p>	<p>Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>districts, and special districts, local education agencies, and non-local entities (as an example, see provisions of Articles 14 and 15 of the proposed regulations). For example, SB 1383 notes that the California Constitution requires the state to “reimburse local agencies and school districts for certain costs mandated by the state (see SB 1383, preamble). SB 1383, Section 7 further states that “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act...” While both local agencies and school districts may have authority to levy service charges, fees, or assessments, the proposed regulations disproportionately place the responsibility on counties and cities, even though they may encounter as much difficulty in raising charges, fees, or assessments as school districts. State agencies similarly are held to a much lower standard than counties and cities, while not being subject to a measurable penalty. Therefore, the Task Force strongly recommends the proposed regulations be revised to provide for a more equitable distribution of the responsibility for achieving the disposal reduction goals among all sectors, including industry, state government, school districts, public and private colleges and universities, and other non-local entities and local education agencies, etc.</p>	
3680	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The proposed regulations impose requirements on counties and cities that exceed the authority granted to CalRecycle by State law or are contrary to it.</p> <p>a. SB 1383 does not provide CalRecycle with the authority to require local jurisdictions to impose civil (monetary) penalties on residential or commercial organic waste generators for non-compliance.</p> <p>The proposed regulations (Article 16, Section 18997.1) require jurisdictions to “adopt ordinance(s) or enforceable mechanisms to impose penalties that are equivalent or stricter than those amounts in Section 18997.2...” (emphasis added). In addition, Section 18997.2. Penalty Amounts, requires: “(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b).” (emphasis added).</p> <p>While SB 1383 grants CalRecycle the authority to “require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction,” this authority does not extend to the imposition of penalties (emphasis added). SB 1383 only provides that CalRecycle “may authorize local jurisdictions to impose penalties on generators for noncompliance” {see Section 42652.5. (a)(1) of the Public Resources Code (PRC)} (emphasis added).</p> <p>In requiring counties and cities to impose steep civil penalties (\$500 per day per violation) on residents and businesses for non-compliance with each requirement of the regulations, CalRecycle would exceed its authority under the law. Such authority is vested on local governmental agencies by PRC Section 40059, which states that,</p>	<p>Regarding Public Resources Code Section 40059, there are two phrases that must be taken into account in its application to SB 1383.</p> <p>First, Public Resources Code Section 40059 applies to aspects of solid waste handling “which are of local concern.” The organic waste diversion mandates in SB 1383 are of statewide application and statewide concern. As described in other responses to comments, CalRecycle was granted broad statutory authority by the Legislature to create rules designed to implement these statewide mandates and ensure the statutory organic waste diversion requirements are met. To the extent there are provisions in the rulemaking that touch on aspects of local solid waste handling, these are regarding matters of statewide concern that have been determined by CalRecycle to be necessary to achieve the goals of SB 1383.</p> <p>Second, Public Resources Code Section 40059 contains the introductory phrase, “Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern...” This phrase contemplates that other laws exist that may affect local solid waste handling and that the mere existence of those laws does not automatically preempt local governments from regulating the enumerated subject areas. It was designed to make clear that the state was not preempting the entire field of solid waste handling and that local jurisdictions were still allowed to regulate in certain areas.</p> <p>As such, Public Resources Code 40059 is not a limitation on CalRecycle from regulating aspects of solid waste handling to the extent they are of statewide concern.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>“each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.” (emphasis added).</p> <p>Therefore, the Task Force strongly recommends the proposed regulations be revised to delete any and all provisions that require counties and cities to impose civil (monetary) penalties on their residents or businesses. The language may be revised pursuant to PRC Section 42652.5 (a)(1) to authorize counties and cities to do so, as they deem appropriate (emphasis added).</p>	<p>39730.6 of the Health and Safety Code.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Administrative Civil Penalty tables, including “Base Table 6,” were deleted from the proposed regulations</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.
3681	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>b. SB 1383 does not preclude CalRecycle from considering county or city “good faith efforts” to comply with the regulations.</p> <p>CalRecycle’s Statutory Background and Primary Regulatory Policies document states, in part, that “Legislative guidance directs CalRecycle not to...utilize the “Good Faith Effort” compliance model specified in PRC Section 41825.” This is inaccurate and contrary to the language of SB 1383. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (emphasis added).</p> <p>Since PRC Section 41825 establishes the process to determine whether a jurisdiction has made a “good faith effort” to comply with the law, it is clear that CalRecycle is required to consider “good faith effort” in making its determination of a jurisdiction’s progress. Therefore, the proposed regulations need to be revised to provide for this provision.</p>	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3682	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	As proposed, the definition of “organic” is extremely broad and basically includes plastics. The inclusion of plastic does not fit into the concept of organic collection and processing. This definition should be narrowed to prevent confusion, be consistent with state law, and should not include textiles, carpets, fiber, biosolids, digestate, or sludges. Textiles, carpets, and any other new materials should not be considered “organic” material unless their greenhouse gas (GHG) potential is analyzed. See the “Specific Comments” section of this letter, Article 1, Section 18982 (a) (46), for further comments and recommendations.	Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
3683	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The proposed regulations require local governments to purchase recovered/recycled organic waste products targets set by CalRecycle. While we cannot see any statutory procurement requirement within the provisions of SB 1383, the implementation of these requirements will result in substantial additional costs to local governments over and above the costs jurisdictions already anticipate to incur for complying with the extensive programmatic requirements of the proposed regulations. Therefore, the Task Force respectfully request that CalRecycle instead work to develop markets for recovered/recycled organic waste products. Further, the additional costs that will result from complying with the proposed regulations’ procurement requirements represent an unfunded state mandate under California Constitution, Article XIII B, Section 6 (a) since the proposed regulations would impose a new program on local governments and neither the	CalRecycle determined that procurement requirements were necessary to achieve the organic waste diversion targets in statute by ensuring an end use for processed organic waste. Furthermore, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes,

Comment Number	Received From	Question/Comment	Response(s)
		<p>draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local governments in SB 1383. Any fee that a city, a county or city and county attempts to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even if a fee were to survive scrutiny under Proposition 26, it is questionable whether a jurisdiction would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Proposition 218). This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, the Task Force requests that the proposed procurement requirements be addressed in a separate regulatory proceeding.</p>	<p>overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383. According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate. Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
3684	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The Task Force strongly believes that jurisdictions and regulated agencies would like to see the proposed regulations to be less prescriptive, more flexible, and less punitive, as well as to include reasonable timeframes for compliance. At the same time CalRecycle should focus state efforts on market development, technical support, including efforts to investigate emerging technologies leading to the development of new facilities and products, and funding for infrastructure.</p>	<p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, “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.” That section also provides that CalRecycle may “include different levels of requirements for local jurisdictions...”</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, “The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.” SB 1383 is included within Division 30.</p> <p>As stated in PaintCare v. Mortensen (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
3685	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/	“Special Districts” should be defined in the regulations. Furthermore, the regulations should clarify whether special districts are considered “jurisdictions” or “non-local entities,” since “special districts” are included in both definitions.	Thank you for the comment. CalRecycle revised the definition of ‘jurisdiction’ in Section 18982(a)(36) because the original term “handling” as used in the definition is overly broad. This change is necessary to provide clarity. In response to this comment, CalRecycle defined a “special district” as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly,

Comment Number	Received From	Question/Comment	Response(s)
	Integrated Waste Management Task Force comments		<p>the definition of jurisdiction was amended to note that a “special district that provides solid waste collection services” is a jurisdiction.</p> <p>Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction’s regulations related to solid waste. The definition of “non-local entity,” lists special districts as an example of a type of entity that could be a “non-local entity” but it does not definitively state that all special districts are non-local entities. Any special district that is a “jurisdiction” and also a “non-local entity” generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3.</p>
3686	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The proposed definition of "Food recovery organization" as written includes temporary food facilities, as defined under Section 113842 of the Health and Safety Code. According to the Health and Safety Code (H&SC):</p> <p>Nonprofit charitable temporary food facilities" means either one of the following:</p> <p>(a) A temporary food facility, as defined in Section 113930 of the H&SC, that is conducted by a nonprofit charitable organization, as defined in Section 113841 of the H&SC.</p> <p>(b) An established club or organization of students that operates under the authorization of a school or other educational facility.</p> <p>Should these clubs and organization be included, local jurisdictions would have to:</p> <p>1) Annually identify all clubs or organizations at schools and other educational facilities (which are considered non-local entities) operating within the jurisdiction and maintain these school clubs and organizations on the jurisdiction’s website and outreach materials as potential temporary food facilities for use by commercial edible food generators - pursuant with Section 18985.2 of the proposed regulations.</p> <p>2) Assess the edible food recovery of school clubs and organizations which are involved in food recovery activities - pursuant to Section 18991.2(a)(2) of the proposed regulations.</p> <p>The Task Force recommends that nonprofit charitable temporary food facilities be excluded from the requirements listed under Section 18985.2(a)(1) and Section 18991.2(a)(2) of the proposed regulations, as they do not contribute greatly to existing food recovery capacity, and it would be an undue burden to both jurisdictions and student organizations to have to comply with these regulations.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(25) “Food recovery organization” means an entity that primarily engages in the collection or receipt of edible food from edible food generators and distributes that edible food to the public for consumption, including, but not limited to:</p> <p>(A) A food bank as defined in Section 113783 of the Health and Safety Code;</p> <p>(B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,</p> <p>(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.</p>	<p>Removing “nonprofit charitable temporary food facilities” from the definition of “food recovery organization” was not necessary because these entities are a type of food recovery organization that should be recognized and also can help California achieve its 20% edible food recovery goal. However, CalRecycle recognizes that that assessing edible food recovery capacity at nonprofit charitable temporary food facilities could be onerous given that these entities include clubs or organizations of students that operate under the authorization of a school or other educational facility. To address this concern, CalRecycle revised section 18992.2. (a)(2) so that jurisdictions will not be required to assess capacity at nonprofit charitable temporary food facilities located within the county and jurisdictions within the county. This revision was necessary to help jurisdictions comply with the edible food recovery capacity planning requirements specified in Section 18992.2.</p> <p>Regarding the comment pertaining to Section 18985.2. Edible Food Recovery Education and Outreach (a)(1). The commenter has misinterpreted the requirement to develop a list of food recovery organizations and services operating within the jurisdiction. To clarify, the requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and services operating within the jurisdiction, just that “a list” be created, maintained on the jurisdiction’s website, and updated annually.</p> <p>It is at the discretion of the jurisdiction to determine the food recovery organizations and services that they believe should be included on the list. Please note that the list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with pursuant to Section 18991.3(b), and thereby 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.</p> <p>Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing recovered edible food on a routine basis.</p>

Comment Number	Received From	Question/Comment	Response(s)
3687	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The definition of “organic waste” as specified in the proposed regulations is extremely broad and means “solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.” This highly broad definition seems to state that organic waste includes any type of waste other than “inert waste.” It may include solid waste, medical waste, non-inert hazardous waste, etc. The scope of this proposed definition can be reduced by limiting it to “organic solid waste.” Furthermore, the definition in the regulations is inconsistent with the definition of “organic waste” in Section 42649.8(c) of the Public Resources Code (PRC), as established by Assembly Bill 1826 (2014). AB 1826 defines “organic waste” as “food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.” The intention of SB 1383 is to establish a statewide goal to reduce the landfill disposal of the types of organic waste listed under AB 1826. Therefore, the definition of organic waste in the proposed regulations should be revised to be consistent with the definition in AB 1826. Also see General Comment No. 3.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (46) “Organic waste” or “organic solid waste” means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. 	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p>
3688	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The definition of “renewable transportation fuel” without any justifiable reason and/or scientifically supported analysis, limits it to fuel derived from renewable gas through in-vessel digestion of organic waste only. The regulations should expand the definition of “renewable transportation fuel” to include fuel derived from renewable gas from other technologies, including thermal conversion technologies such as gasification and pyrolysis, as well methane gas generated from municipal solid waste landfills since it is biogenic in origin.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (62) “Renewable transportation fuel” means fuel derived from renewable gas generated from organic waste that has been diverted from a landfill, and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, a biomass conversion facility that is permitted or otherwise authorized by Division 30 of the Public Resources Code to recycle organic waste, or any other process or technology that is subsequently deemed under section 18983.2 to constitute a reduction in landfill disposal. 	<p>Regarding expanding “renewable gas” to include gas from technologies such as gasification and pyrolysis, CalRecycle disagrees with this approach. These technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.</p> <p>Regarding landfill gas, the SB 1383 mandate is to recover organic waste that would be disposed. Generating gas in municipal solid waste landfills requires disposal of organic waste in landfills; therefore, it is inconsistent with statute to incentivize or mandate activities that do not reduce landfill disposal.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>

Comment Number	Received From	Question/Comment	Response(s)
3689	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The term "entity," which is referenced multiple times in the regulations, should be defined in the regulations.	CalRecycle did not include a definition for "entity" because it is using the term in the regulations consistent with the commonly understood dictionary definition of the word as opposed to a specialized term requiring regulatory clarification. The term "entity" is used thousands of times in various state statutes without definition for the same reason.
3690	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The term "regional agency," which is referenced in Sections 18981.2 (b) (2), 18987.2 (a) (1), 18992.1 (a), 18992.1 (b), 18992.2 (a), and 18992.3 (a), should be defined in the regulations.	Regional agencies are defined in Public Resources Code Section 40181. Per Public Resources Code Section 40100, that definition extends to regulations adopted under Division 30 of the Public Resources Code.
3691	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The term non-organic waste, which is referenced in Sections 18982 (55) (A), 18984.1 (a) (1), 18984.1 (a) (2), 18984.1 (a) (3), 18984.2 (a) (2), 18984.2 (a) (3), 18984.9 (b) (1), 18986.1 (b), and 18986.2 (b), should be defined in the regulations.	Comment noted. The definition of organic waste clearly identifies materials that are types of organic waste. It is not necessary to define the inverse of this definition because anything not included in the organic waste definition is implicitly non-organic waste.
3692	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	The definition of "jurisdiction" has been modified in the proposed regulations to include "special districts that provide solid waste handling services." No definition of solid waste handling is included in the proposed regulations; however, this phrase is defined in two sections of the Public Resources Code, (1) Section 40195 "the collection, transportation, storage, transfer, or processing of solid wastes", and (2) Section 49505 "the collection, transportation, storage, transfer, or processing of solid waste for residential, commercial, institutional, or industrial users or customers." This has created a problem in that some special districts provide some of those services but not all of them. Therefore, the Task Force requests that the proposed regulations be modified to only apply the requirements intended for a "jurisdiction" (as defined in the PRC Section 40145). As such the proposed change in the definition of jurisdiction is overly broad and should be narrowed to be consistent with the Public Resources Code definition of "jurisdiction" contained in	In response to this comment, CalRecycle defined a "special district" as having the same meaning as Section 41821.2 of the Public Resources Code. Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a "special district that provides solid waste collection services" is a jurisdiction. Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction's regulations related to solid waste. The definition of "non- local entity," lists special districts as an example of a type of entity that could be a "non- local entity" but it does not definitively state that all special districts are non-local entities. Any special district that is a "jurisdiction" and also a "non-local entity" generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3.

Comment Number	Received From	Question/Comment	Response(s)
		<p>Section 40145. In general, the Task Force recommends that CalRecycle keeps the definitions consistent with those in the Public Resources Code.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (36) "Jurisdiction" means a city, or county or a city and county or a special district that provides solid waste handling services. A city, county or county and city may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, or city and county shall remain ultimately responsible for compliance. 	
3693	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>In addition to anaerobic digestion and composting, biosolids can also be processed through gasification. Biosolids that are gasified produce biochar, an organic soil amendment. The Task Force recommends that CalRecycle include the land application of biochar produced from biosolids as a reduction of landfill disposal. The California Energy Commission's 2017 Integrated Energy Policy Report (2017 IEPR), published on April 16, 2018, states that the gasification of biosolids to produce biochar is a revenue source to promote the development of renewable natural gas (RNG) projects, which will be needed if jurisdictions are to meet the requirements to procure RNG transportation fuel per Section 18993.1(f)(2) of the proposed regulations.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (b) (6) Land application, as defined in Section 17852(a)(24.5), of this division subject to the following conditions: (A) Green waste or green material shall meet the definition of Section 17852(a)(21) and shall have been processed at a solid waste facility, as defined by Section 40194 of the Public Resources Code. (B) Biosolids shall: 1. Have undergone anaerobic digestion or composting, any of the pathogen treatment processes as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, or gasification, as defined in Section 40117 of the Public Resources Code, to produce biochar, as defined in Section 14513.5. of the Food and Agriculture Code, and, 2. Meet the requirements in Section 17852(a)(24.5)(B)(6) of this division for beneficial reuse of biosolids. (C) Digestate shall: 1. Have been anaerobically digested at an in-vessel digestion operation or facility, as described in 14 CCR sections 17896.8 through 17896.13; and, 2. Meet the land application requirements described in 14 CCR Section 17852(a)(24.5)(A). 3. Have obtained applicable approvals from the State and/or Regional Water Quality Control Board requirements 	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383. However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste. Please refer to Section 18983.2 for more information.</p>
3694	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste	<p>SB 1383, Section 42652 of the PRC reads as follows: "The Legislature finds and declares all of the following: "(a) The organic waste disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01.</p>	<p>Several commenters suggested using avoided landfill emissions as the benchmark in the determination of processes or technologies that constitute a reduction in landfill disposal. Although this proposal might increase diversion of organics from landfills, it would not achieve the greenhouse gas emissions reductions required to meet the methane reduction target required by</p>

Comment Number	Received From	Question/Comment	Response(s)
	Management Committee/ Integrated Waste Management Task Force comments	<p>(b) Achieving organic waste disposal reduction targets require significant investment to develop organics recycling capacity.</p> <p>(c) More robust state and local funding mechanisms are needed to support the expansion of organics recycling capacity.”</p> <p>Based on the foregoing, it is clear that the Legislature and the Governor, as a part of the SB 1383 enactment, emphasized the need for development of alternative technology facilities beyond composting and anaerobic digestion technologies/facilities, upon which CalRecycle has heavily relied, while not placing sufficient emphasis on development of alternative technologies and even subjecting them to heavily restrictive standards that other methods and processes are not subjected to (such as land application). In doing so, the state has created a significant obstacle to development of facilities utilizing these technologies without a clear and scientifically substantiated justification. For example, Section 18983.2 states “To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department and/or CARB’s Executive Office shall compare the metric tons carbon dioxide equivalent (MTCO_{2e}) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste” (emphasis added). To be consistent with requirements of PRC Section 42652 and technically correct, the analysis should be made in comparison to “landfilling” and not “composting.” The Task Force would like to emphasize that the SB 1383 mandates reduction of organic waste disposal in landfills and not any other type of facilities such as those utilizing conversion technology, (emphasis added).</p>	SB 1383 or the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO _{2e} per short ton organic waste was set to ensure emission reductions for any new process or technology are comparable to the emission reductions necessary to achieve the strategy’s emission reduction goal of 4 MMTCO _{2e} for this sector.
3695	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>This section does not specify obligations on the Department or the California Air Resources Board (CARB) to review the applications in a timely manner. The regulations must require the Department and CARB to make a determination in a realistic timeframe to facilitate the development of organics recycling infrastructure.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(2) The Department shall consult with CARB’s Executive Officer within 30 days of receiving the application to evaluate if the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation, and whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal. The Department shall provide a response to the applicant within 90 days of receiving the application whether the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation and, in the response, request additional information, if needed. The Department shall make a determination whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in</p>	The commenters request greater certainty at to when to expect CARB and/or CalRecycle will determine whether a proposed process or technology constitutes a reduction in landfill disposal. CalRecycle added clarification in the regulation, including that CalRecycle would let applicants know within 30 days of receipt of the application whether or not CalRecycle needs more information to process the application, and that CalRecycle will inform the applicant within 180 days after they have all needed information as to whether or not the process or technology is deemed to count as a reduction in landfill disposal. This timeline will provide applicants with a reasonable timeline for receiving determinations on proposed processes or technologies.

Comment Number	Received From	Question/Comment	Response(s)
		landfill disposal, and inform the applicant of the decision within 180 days of receiving the application.	
3696	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	CalRecycle and CARB have joint authority over the verified technology determination. As the SB 1383 regulation text currently reads, either CalRecycle, CARB, or both can make this determination. The roles must be better defined to avoid delaying the technology verification process and to facilitate the development of new infrastructure.	CalRecycle modified the text to clarify that CalRecycle, as the entity overseeing implementation of this regulation, makes the final determination of whether a process or technology constitutes a reduction in landfill disposal. This change is needed to clarify roles.
3697	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18983.2 specifies the process used to determine if operations, facilities or activities not expressly identified in the regulation shall be deemed to constitute a reduction of landfill disposal. Once this determination is made, it would be reasonable for comparable processes or technologies to be similarly deemed to constitute a reduction of landfill disposal. Section 18983.2(c) appears to provide this opportunity. The regulations must clarify if this is the intent and the section must be expanded to more specifically outline the streamlined approach that would be followed. To facilitate infrastructure development, future applicants should not be required to repeat the verification process for an already-approved process.	As noted in the Initial Statement of Reasons, the purpose of subdivision 18983.2(c) "is to allow an applicant to request that CalRecycle consider additional information not otherwise required in Article 2 that shows that 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." This section is not meant to streamline applications but is meant to allow for applicants not to go through the full process/technology application process if an identical or equivalent technology for process has already has been approved.
3698	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider "good faith effort" in determining a jurisdiction's progress in complying with the law. It states that CalRecycle "shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825..." (emphasis added). Therefore, the Task Force recommends that CalRecycle revise the regulations to incorporate provisions for jurisdictions demonstrating a "good faith effort" to comply. <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (a) This article specifies the minimum recommended standards for organic waste collection services provided by jurisdictions, outlines efforts jurisdictions must demonstrate a good faith effort to engage in to reduce container contamination, delineates recommended container color and labeling requirements, specifies criteria for rural jurisdictions to be exempt from specified requirements of this section and criteria for jurisdictions to waive requirements for specified generators. This article additionally specifies associated recordkeeping requirements for these standards. 	A change to the regulatory text is not necessary. When the legislature enacted the Recycling of Commercial Waste ("MCR") law (PRC Section 41649.3(h) and (i) and the Recycling of Organic Waste ("MORE) law(PRC Section 42649.82(g) and (h) both statutes expressly required that the Department evaluate these programs using the "good faith effort" standard contained in PRC section 41825. The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3699	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste	Pursuant to SB 1383, Subdivision 45652 of the PRC, the Legislature, among other things, finds and declares that "(a) The organic waste disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01." The "simplest" way to measure the reduction of organic waste disposal is to	SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This

Comment Number	Received From	Question/Comment	Response(s)
	Management Committee/ Integrated Waste Management Task Force comments	<p>quantify the tonnages of organic waste being diverted. As such, the Task Force questions the prescriptive/mandatory collection services, including the required containers and their colors, which would be mandated by the proposed regulations, are unnecessarily onerous and would impose a significant cost to counties, cities, and their residents and businesses. The Task Force strongly recommends that CalRecycle conduct and make available a detailed cost benefit analysis of the various alternative approaches to the mandatory organic waste collection service requirements considered. The Task Force also believes that said requirements are inconsistent with the state law, PRC Section 40059.</p> <p>The Task Force respectfully requests CalRecycle to address these issues in the next version of the proposed regulations.</p>	<p>authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.</p> <p>Regarding Public Resources Code Section 40059, there are two phrases that must be taken into account in its application to SB 1383.</p> <p>First, Public Resources Code Section 40059 applies to aspects of solid waste handling “which are of local concern.” The organic waste diversion mandates in SB 1383 are of statewide application and statewide concern. As described in other responses to comments, CalRecycle was granted broad statutory authority by the Legislature to create rules designed to implement these statewide mandates and ensure the statutory organic waste diversion requirements are met. To the extent there are provisions in the rulemaking that touch on aspects of local solid waste handling, these are regarding matters of statewide concern that have been determined by CalRecycle to be necessary to achieve the goals of SB 1383. CalRecycle does not believe a cost/benefit analysis is necessary.</p> <p>Second, Public Resources Code Section 40059 contains the introductory phrase, “Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine...aspects of solid waste handling which are of local concern...” This phrase contemplates that other laws exist that may affect local solid waste handling and that the mere existence of those laws does not automatically preempt local governments from regulating the enumerated subject areas. It was designed to make clear that the state was not preempting the entire field of solid waste handling and that local jurisdictions were still allowed to regulate in certain areas.</p> <p>As such, Public Resources Code 40059 is not a limitation on CalRecycle from regulating aspects of solid waste handling to the extent they are of statewide concern.</p>
3700	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.4. Recordkeeping Requirements for Compliance with Organic Collection</p> <p>The Task Force is concerned about the requirement (a)(3)(D) which states that the jurisdiction must provide the geographical areas served by the haulers, along with routes serviced, or a list of addresses served. Jurisdictions, through their franchise agreements/contracts, have committed to protecting proprietary information which may result in an economic disadvantage should the information be disclosed to haulers' competitors. The Task Force recommends order to protect the hauler's proprietary information.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(a) A jurisdiction shall include the following information and documents in the Implementation Record required by Section 18995.2 of this chapter:</p> <ol style="list-style-type: none"> (1) A description of which collection method(s) it will use to comply with this article. (2) The geographical area for each collection method 	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure. The proposed regulations provide for this.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(3) If the jurisdiction is using a service that requires the contents of containers provided by the jurisdiction to be transported to a high diversion organic waste processing facility, the jurisdiction shall at a minimum:</p> <p>(A) List all high diversion organic waste processing facilities used by the jurisdiction.</p> <p>(B) Include copies of, quarterly and annual average mixed waste organic content recovery rates, for each of those facilities, as defined in Section 18984.3.</p> <p>(C) List all approved haulers in the jurisdiction that are allowed to take organic waste to the jurisdiction’s identified high diversion organic waste processing facility or facilities.</p> <p>(D) The geographical area the hauler(s) serves, or the routes serviced, or a list of addresses served.</p>	
3701	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.5. Container Contamination Minimization</p> <p>The regulations require jurisdictions to monitor containers and conduct route reviews as part of the container contamination minimization protocol. Furthermore, Section 18997.3 Base Table 1 lists monetary penalties for jurisdictions not implementing a container contamination minimization protocol. However, Section 17409.5.7.(c), Section 17409.5.11(b)(4), Section 17867(a)(4)(E), Section 17896.25.1(d), and Section 20901(d) state that the enforcement agency (EA) may approve an alternative frequency for load checking at a facility if the facility receives waste from jurisdictions that are monitoring containers using the container contamination minimization described in Section 18984.5. This implies that a jurisdictions’ implementation of the container contamination minimization protocol is not required. CalRecycle should clarify in the regulations whether jurisdictions are required to implement a container contamination minimization protocol.</p>	<p>Jurisdictions are required to conduct container contamination monitoring. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p>

Comment Number	Received From	Question/Comment	Response(s)
			In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.
3702	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.5. Container Contamination Minimization</p> <p>This section indicates that if a jurisdiction is utilizing a two or three-container collection system, all collection routes must be reviewed quarterly for prohibited container contaminants. Due to the size of a jurisdiction, such as the County of Los Angeles geographical jurisdiction and the number of routes presently served, this presents an incredible burden on the jurisdiction's labor and financial resources. The Task Force recommends reducing the monitoring frequency requirement to something that jurisdictions may more realistically meet. The Task Force recommends shifting this requirement to not less than annually with statistically representative sampling. The Task Force believes similar results can be derived if certain routes are sampled by specific geographic regions (such as community) or population density.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (b) A jurisdiction shall conduct a route review for prohibited container contaminants on randomly selected containers in a manner that results in all collection routes being reviewed quarterly annually. 	Thank you for the comment. The language was revised to annually.
3703	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.10. Property and Business Owner Responsibilities</p> <p>The Task Force recommends that this section be revised to specify that residential property owners do not have to arrange for access to individual residential unit, but only to common areas where solid waste and recycling containers are stored or may be stored. Inspectors cannot enter a private property without a Court order. However, inspections of residential containers can be made once the containers are placed in the designated area for collection.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (c) Property and business owners shall provide or arrange for access to their properties, excluding the interior of each residential unit within the property, during all inspections conducted pursuant to Article 14 of this chapter (commencing with Section 18995). Residential containers can be inspected if they are placed in the designated area for collection. 	CalRecycle revised Section 18984.10(c) in response to this comment to specify that residential property owners do not have to arrange for access to individual residential unit.
3704	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.12. Waivers and Exemptions Granted by the Department</p> <p>This section does not recognize the good faith efforts of a jurisdiction to comply with the provisions of this chapter but that is unable to fully comply due to circumstances beyond its control. Provisions need to be provided for good faith efforts.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (d) The Department may grant waivers and/or extensions to any generator, hauler, or jurisdiction that has made good faith efforts to comply with the requirements of this article but has been unable to identify a facility with sufficient capacity to process the materials. 	Section 18996.2 includes all circumstances outside of a jurisdiction's control, including the inability to identify a facility with sufficient capacity to process the materials. The regulations require a jurisdiction to demonstrate that extenuating circumstances exist and that it has made a "substantial effort" which means that it has taken all practicable actions to comply.

Comment Number	Received From	Question/Comment	Response(s)
3705	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Chapter 3.1, Article 3, Section 17867 and Chapter 3.2, Article 3, Section 17867 of the proposed regulations state that material subject to a quarantine on movement issued by a county agricultural commissioner is considered incompatible material rather than organic waste. The regulations should clarify whether quarantined green waste will be exempt from the landfill disposal reduction requirements for organic waste. If quarantined green waste is required to be that the disposed tonnage will not count against the 50 percent and 75 percent landfill disposal reduction targets.</p> <p>In addition, CalRecycle should grant a waiver or exemption for material subject to a quarantine on movement issued by a county agricultural commissioner. Once this quarantined material is collected, it could be transferred to a facility outside of the quarantined zone contaminating other non-quarantined organic waste and spread disease, pests, or harmful bacteria or microorganisms. Additionally, the regulations should also provide a definition for “quarantined material.”</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (d-e) Quarantined Material (1) The Department shall grant an exemption for organic waste collection, as specified in this chapter, for material subject to a quarantine on movement issued by a county agricultural commissioner. A jurisdiction may dispose of organic material if it is subject to a quarantine on movement issued by a county agricultural commissioner. 	<p>Comment noted. With regard to quarantine materials the measurement standards in Section 18984.5 that apply to performance-based source separated organic waste collection systems was amended to state: “For the purposes of demonstrating compliance with 18998.1, organic waste that is textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a county agricultural commissioner, is not required to be measured as organic waste.”</p> <p>These materials may be disposed without counting against a jurisdiction as they comprise a minimal portion of the organic waste stream and/or are uniquely difficult or problematic to recover from a health and safety perspective.</p>
3706	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Please clarify if the definition of “organic waste” that is required to be separated either at the source or at a high-diversion materials recovery facility and diverted from landfill includes organic waste collected from routine non-emergency debris and catch basin cleanouts. The Task Force recommends that organic waste collected from debris and catch basin cleanouts be excluded from the diversion requirements. Because this organic waste accumulates in the stormwater system and is not disposed by any particular generator in a container, it is likely to contain significant contamination and is difficult to separate from other waste and recycle. The Task Force recommends adding a waiver to the regulations addressing organic waste collected from routine cleanouts of debris basins, catch basins, and other stormwater infrastructure.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: (d) Stormwater Infrastructure Exemptions: (1)The Department shall grant waivers for organic waste collected from routine clean-outs of catch basins, debris basins, and other stormwater infrastructure. A local jurisdiction or private contractor may apply to the Department for a general waiver to exempt the organic waste collected from stormwater infrastructures. (d-e) Nothing in this section 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 	<p>This situation is already covered in Section 18984.13(b)(3). This section allows for disposal of sediment debris removed from dams, culverts, reservoirs, channels and other flood control infrastructure.</p>

Comment Number	Received From	Question/Comment	Response(s)
3707	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.13, Emergency Circumstances</p> <p>This section does not address compliance requirements for those cases for which “State of Emergency” as proclaimed by the Governor and defined by the California Code of Regulations, Title 14, Section 17210.1 (k).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) (3) In a case of a “State of Emergency” as proclaimed by the Governor and defined in Section 17210.1 (k) of this division, the Department shall grant a waiver to a jurisdiction(s) from complying with the requirements of this article. Additionally, disaster debris generated from such an emergency shall not be counted as jurisdictional disposal for the purpose of measuring compliance with requirements of this chapter by the Department.</p>	<p>Section 18984.13 allows jurisdictions to submit requests for waivers for disposal of disaster debris that cannot be diverted and allows disposal of sediment debris under specified conditions. The commenter’s proposal would provide an overly broad waiver to jurisdictions of all regulatory requirements, even if a particular emergency does not affect the jurisdiction’s ability to comply with regulatory requirements.</p> <p>The proposal is also unnecessary because, if the Governor has declared a State of Emergency pursuant to the California Emergency Act (Government Code Sections 8550-8668) for conditions that are beyond the control of the jurisdiction to comply with particular aspects of the regulation, that proclamation will take precedence and the jurisdiction would be relieved from that regulatory requirement.</p> <p>As for the suggested amendment regarding counting jurisdictional disposal for measuring compliance with SB 1383, under 1383 the disposal reduction goal is statewide and not jurisdiction specific. Therefore, the text is unnecessary. Insofar as disaster debris affects an individual jurisdiction’s per capita disposal target, CalRecycle has procedures for allowing the jurisdiction to submit a disposal modification.</p>
3708	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18984.13, Emergency Circumstances</p> <p>The Department should grant a waiver for jurisdictions demonstrating a good faith effort to comply with the regulations but are unable to do so due to factors outside of their control. Section 42652.5. (a)(4) of the PRC specifically requires CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (emphasis added).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) Rural Exemptions:</p> <p>(1)The Department shall grant an exemption from complying with the organic waste collection requirements specified in this article for Rural Jurisdictions that meet the definition of a “Rural Jurisdiction” in Section 42649.8 of the Public Resources Code, if the governing body of the jurisdiction adopts a resolution that includes a finding as to the purpose of and need for the exemption.</p> <p>(2) An exemption implemented pursuant to this subdivision shall be valid until January 1, 2025, or until five years after the Department makes a determination pursuant to Section 42649.82 (a)(2)(D) that the statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, whichever is later.</p> <p>(d) Good Faith Effort Exemptions:</p> <p>(1) The Department shall grant an exemption from complying with a part of or all of the requirements of the regulations for a jurisdiction demonstrating a “good faith effort” to comply but cannot do so due to factors outside of its control.</p> <p>(d e) Nothing in this section exempts a jurisdiction from complying with the other requirements to promote and 40 provide information to generators about, waste</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		prevention, community composting, managing organic waste 41 on-site, and other means of recovering organic waste, or any other requirements of this chapter.	
3709	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18985.1. Organic Waste Recovery Education and Outreach</p> <p>Since solid waste facility operators are in direct contact with self-haulers and jurisdictions currently have no way of identifying a generator who is a self-hauler, the Task Force recommends giving solid waste facility operators the defined role of providing information regarding the requirements of Section 18988.3 of this chapter to the self-haulers.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Prior to February 1, 2022, and annually thereafter, a jurisdiction solid waste facility operators shall provide to self-haulers information regarding the requirements of Section 18988.3 of this chapter.</p>	CalRecycle deleted requirements that jurisdictions specifically identify and educate self-haulers in response to this comment. Jurisdictions can meet the requirement to educate self-haulers by including information on self-hauling in their general education and outreach material provided to all generators. CalRecycle deleted language requiring solid waste facility operators to educate self-haulers as it would be overly burdensome and is outside the scope of what EAs monitor at solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction.
3710	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18985.1. Organic Waste Recovery Education and Outreach</p> <p>Los Angeles County is a very linguistically diverse county. Within the unincorporated areas alone, there are many generators that are "Limited English Speakers". The Task Force is concerned that the regulations may require jurisdictions to provide the education and outreach materials in every language spoken by generators within a given jurisdiction.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(f) If more than five percent of a jurisdiction's generators are defined as "Limited English Speaking Households," or "linguistically isolated," as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a the most common language or languages that will assure the information is understood by those generators and may provide the information required by this section in other languages, upon request from a generator.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3711	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18986.1. Non-Local Entities Requirements states that "materials subject to a quarantine on movement issued by a county" shall not be deposited in organic waste containers (green) or recycling containers (blue). However, the proposal does not prohibit disposal in the gray container, leading to the ultimate transfer of these materials to solid waste facilities which would cause the spread of contamination and/or disease. This issue needs to be addressed in the next version of the proposed regulations. Furthermore, collection requirements for non-local entities should be consistent with the requirements for collection services provided by jurisdictions to other generators, including residents and businesses. The requirements for collection services provided by local jurisdictions do not make reference to restrictions on the disposal of "materials subject to a quarantine on movement by a county" in any collection container.	Thank you for the comment. CalRecycle amended the applicable section to state that a non-local entity's collection service shall be in compliance with the requirements in Article 3.
3712	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste	Section 18986.2. Local Education Agencies Requirements requirements for commercial businesses, multifamily properties, and non-local entities. Unlike the other aforementioned groups, Section 18986.2 does not include requirements for local education agencies to prohibit the placement of organic waste in containers not designated for organic waste, and to periodically inspect	CalRecycle has revised Section 18986.2 to reflect that local education agencies shall prohibit their employees from placing organic waste in the incorrect container and inspect containers.

Comment Number	Received From	Question/Comment	Response(s)
	Management Committee/ Integrated Waste Management Task Force comments	<p>collection containers for and inform employees of observed contamination. The Task Force recommends that the Department create uniform requirements for all regulated entities, included local education agencies, so as to afford equal treatment.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ol style="list-style-type: none"> Local education agencies shall also: <ol style="list-style-type: none"> Provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located. The containers provided shall conform to the requirements of the containers provided through the organic waste recovery service to which the local education agency is subscribed. Prohibit their employees and students from placing organic waste in containers not designated for organic waste as set forth in Section 18984.1.(a)(5) and Section 18984.2.(a)(5) of this chapter. Periodically inspect organic waste containers for contamination and inform employees if containers are contaminated, and of the requirement to only use those containers for organic waste 	
3713	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>It is unclear what conditions would render sewage sludge and biosolids not suitable for additional processing or recovery and require them to be sent for disposal. In addition, as written, the regulations seem to indicate that biosolids can only be disposed if they cannot be recovered. CalRecycle should not require all biosolids to be recovered and should not limit landfill disposal of biosolids as long as the organic waste landfill disposal reduction targets can be satisfied. Additionally, the remaining sewage sludge and biosolids sent for disposal to appropriate permitted disposal facilities should not be counted as disposal against the host jurisdictions in which the POTW and disposal facility is located.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ol style="list-style-type: none"> Sewage sludge and biosolids generated at a POTW shall may be: <ol style="list-style-type: none"> Transported only to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 20.1(b) of this Division, or Notwithstanding subdivision (a)(1), sewage sludge and biosolids not suitable for additional processing or recovery may be Sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the local, regional, state, and federal agencies having appropriate jurisdiction. Residual sewage sludge and biosolids that are remaining after treatment at a POTW and destined for disposal are not subject to requirements of this chapter including, but not limited to, organic waste disposal reduction . 	CalRecycle has deleted Section 18987.2 in response to comments.
3714	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste	<p>Section 18988.3. Self-haulers of Organic Waste As written, the regulations require self-haulers to source-separate all organic waste generated on site. Self-haulers should not be held to more stringent standards than</p>	CalRecycle revised Section 18988.3 in response to this comment to clarify that self-haulers should not be held to more stringent standards than contracted haulers and should be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.

Comment Number	Received From	Question/Comment	Response(s)
	Management Committee/ Integrated Waste Management Task Force comments	<p>contracted haulers and should also be allowed to take mixed waste to an approved high-diversion organic waste processing facility meeting all applicable requirements.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ul style="list-style-type: none"> (a) Generators of organic waste may, in compliance with Section 18988.1 of this Division self-haul their own organic waste. (b) A generator who is a self-hauler of organic waste shall comply with the following: <ul style="list-style-type: none"> (1) The generator shall source separate all organic waste generated on-site in a manner consistent with 14 CCR Section 30.1 and 30.2 of this chapter. (1) The generator shall haul source separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source separated organic waste. (3) (2) The generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the jurisdiction. <ul style="list-style-type: none"> (A) The records shall include delivery receipts and weight tickets from the entity accepting the waste. (B) The record shall indicate the amount of material in cubic yards or tons transported by the generator to each entity. (C) Notwithstanding subdivision (b)(3)(A), if the material is transported to an entity that does not have scales on-site, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste. (4) (3) A self-hauler shall annually report the following to the jurisdiction in which it is located: <ul style="list-style-type: none"> (A) The total amount of source separated organic waste in tons that was self-hauled; and, (B) The location or address of each entity that accepted self-hauled waste from the generator. (5) (4) A residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in subdivision (b)(2) and (b)(3). 	
3715	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program</p> <p>jurisdiction must provide copies of all reports required by haulers to the Department (emphasis added). Jurisdictions, through their franchise agreements/contracts, have committed to protecting proprietary information which may result in an economic disadvantage should the information be disclosed to haulers' competitors. The Task Force recommends removing the requirement for jurisdictions to provide copies of all reports in order to protect the hauler's proprietary information.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: 	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the Implementation Record required by Article 14 of this chapter. Records maintained shall include but are not limited to copies of:</p> <p>(1) Ordinances, contracts, franchise agreements, policies procedures, or programs relevant to this section.</p> <p>(2) A description of the jurisdiction’s hauler program including:</p> <p>(A) Type of hauler systems the jurisdictions uses.</p> <p>(B) Type and conditions of approvals per type of hauler, and criteria for approvals, denials and revocations.</p> <p>(C) Process for issuing, revoking, and denying written approvals.</p> <p>(D) Any requirements associated with self-hauling and back-hauling.</p> <p>(3) A record of hauler compliance with local ordinance(s) and the requirements of this article including the following information:</p> <p>(A) Copies of all reports required by haulers.</p> <p>(B) A Copies of reports from self-hauler as required by Section 18988.3.</p> <p>(C) B Copies of all written approvals, denials, and revocations.</p> <p>(b) All records required by this article shall include the date of action, the name of the hauler, and the type of the action taken by the jurisdiction.</p>	
3716	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18989.1 Cal Green Building Code</p> <p>The “non-local entities” and “local education agencies” do not report to local jurisdictions and, in most cases, they are not regulated by the local jurisdiction’s building officials. As such, the Department is the best entity for managing the requirements of Section 18989.1. for these generators. The Department will be responsible for tracking and ensuring compliance by non-local entities and local education agencies.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Non-local entities and local education agencies are to comply with requirements of Subsections (a)(1) and (a)(2) and reporting to the Department.</p>	A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department and that is made clear in other sections of the regulations.
3717	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18990.1. Organic Waste Recovery Standards and Policies</p> <p>Based on provisions of Subsection (c)(4), the proposed requirements of the Subsection(b)(3) contradict the decision in UNITED HAULERS ASSOCIATION, INC., ET AL V. ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY ET AL., that prevents jurisdictions to utilize flow control.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b)(3) Limit the export outside of organic waste to a facility, operation, property or activity outside the jurisdiction that recovers the organic waste through a method identified in Article 2 of this chapter.</p> <p>(c)(4) Prohibit a jurisdiction from arranging through a contract or franchise for hauler or a self-haul organic waste generator to transport organic waste to a particular solid waste facility or operation for processing or recovery.</p>	A change to the regulatory text is not necessary. United Haulers Association Inc., et al. v. Oneida-Herkimer Solid Waste Management Authority et al. states that an ordinance requiring waste go to a public facility does not violate the flow control restrictions of the Interstate Commerce Clause, does not authorize or require that municipalities be allowed to do so under the U.S. Constitution, nor does it prohibit a state from prohibiting such restrictions. State law explicitly promotes the free movement of material under the Integrated Waste Management Act, Public Resources Code Sections 40001 and 40002, and this restriction is designed to ensure that. The regulatory text was revised in response to this comment to remove the word "outside" for syntax purposes. Section 18990.1 (b)(3) prohibits the limitation of exports outside the jurisdiction, which is necessary to address the need for regional collaboration and to ensure the highest diversion rates are achieved to meet the statute’s goals.
3718	Rapp L., City of Lakewood -- refers	Section 18991.1. Jurisdiction Edible Food Recovery Program	Although jurisdictions will not enforce non-local entities or local education agencies, jurisdictions are still required to provide non-local entities and local education agencies with edible food

Comment Number	Received From	Question/Comment	Response(s)
	to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>The Task Force recommends that the State specify that jurisdictions are required to provide education and monitor compliance of commercial edible food generators but that this requirement excludes certain Tier Two commercial edible food generators, namely “non-local entities” and “local education agencies”. Because non-local entities and local education agencies do not report to local jurisdictions, the Department is the best entity for managing the requirements of Section 18991.1 for these generators. The Department will be responsible for tracking waivers and exemptions for these groups and would be in the best position to education, monitor, and conduct outreach to these generators.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ol style="list-style-type: none"> A jurisdiction shall implement an edible food recovery program that shall include the actions that the jurisdiction plans to take to accomplish the following: <ol style="list-style-type: none"> Educate commercial edible food generators with the exception of non-local entities and local education agencies as set forth in Section 18985.2. Increase the access of commercial edible food generators access with the exception of non-local entities and local education agencies to edible food recovery organizations and edible food recovery services. Monitor the compliance of commercial edible food generators compliance with the exception of non-local entities and local education agencies as required in Article 14. Increase edible food recovery capacity if the analysis required by Section 18992.1 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs. A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms. 	<p>recovery education and outreach pursuant to Section 18991.1 (a)(1) and Section 18985.2 of the regulations. CalRecycle would also like to clarify that jurisdictions are required to increase all commercial edible food generators' access to food recovery organizations and food recovery services including local education agencies and non-local entities located within the jurisdiction. In addition, it is clear from the definition of "non-local entity" and "local education agency" that they are not subject to the control of a jurisdiction's authority; therefore, is it implicit that jurisdictions are only to enforce on those they have authority over. CalRecycle is responsible for monitoring compliance and enforcement of those entities.</p> <p>Regarding the comment about CalRecycle being responsible for tracking waivers and exemptions for these groups and would be in the best position to educate, monitor, and conduct outreach to these generators, the regulatory text does not include commercial edible food generator waivers or exemptions.</p>
3719	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ol style="list-style-type: none"> A jurisdiction shall include all documents supporting its compliance with Section 18991.1 in the Implementation Record required by Section 18995.2 of this chapter and shall also include at a minimum: <ol style="list-style-type: none"> A list of commercial edible food generators with the exception of non-local entities and local education agencies in the jurisdiction that have arrangements with edible food recovery organizations or services. Non-local entities and local education agencies are to report to the Department, as appropriate. 	<p>Section 18991.2 requires jurisdictions to include all documents supporting its compliance with Section 18991.1 in the Implementation Record. To clarify, since jurisdictions are not required to monitor the compliance of non-local entities or local education agencies, jurisdictions are therefore not required to include non-local entities or local education agencies on their list pursuant to Section 18991.2 (a)(1). However, all commercial edible food generators in the jurisdiction (that are not non-local entities or local education agencies) 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).</p> <p>CalRecycle would also like to clarify that 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 non-local entities and local education agencies. Therefore, the jurisdiction must identify all commercial edible food generators in the jurisdiction (including non-local entities and local education agencies) and include the number of all those commercial edible food generators on its list required in Section 18994.2 (h)(1).</p>

Comment Number	Received From	Question/Comment	Response(s)
3720	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18991.3. Commercial Edible Food Generators</p> <p>If a large event is held at a State-owned facility, such as a state park, the regulations should clarify that it is the responsibility of the Department to ensure compliance with this Section 18991.3. and Section 18997.2. Penalty Amounts.</p>	<p>To clarify, if the commercial edible food generator operating at the event or facility is subject to the jurisdiction's authority then it is the responsibility of the jurisdiction to monitor compliance and enforce. If the commercial edible food generator is not subject to a jurisdiction's authority, then is it CalRecycle's responsibility to monitor compliance and enforce.</p>
3721	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>It should be recognized that the local task force created pursuant to Section 40950 of the Public Resource Code can be an asset to the county and the cities within the county in data collection and planning efforts listed in Section 18992.1(a).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ul style="list-style-type: none"> (a) "Counties in coordination with cities, and regional agencies located within the county, and the local task force created pursuant to Section 40950 of the PRC, shall:" 	<p>A change in the regulatory text is not necessary because the regulations already identify local task forces as needing to be consulted.</p>
3722	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>There is major concern with jurisdictions being required to "verify" that capacity is available to them through contracts, permits, franchise or guarantees of access documentation. Considering that there is already a shortfall in organic waste management capacity statewide, it is inevitable that some jurisdictions will be without capacity. This may result in a competitive bidding war and/or implementation of flow control by some entities.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) (2) The jurisdiction in which the facility is located, and all appropriate Regional, State and Federal non-local entities and local education agencies, shall identify the amount in tons of the existing organic waste recycling infrastructure capacity at each fully permitted facility, which they are or intent to use, located both in the county and outside of the county, that is verifiably available to the county, and jurisdictions, non-local entities and local education agencies located within the county.</p> <p>(A) A county can demonstrate the capacity is verifiably available to the county or its jurisdictions through a contract, permit, franchise, or other documentation of the following:</p> <ol style="list-style-type: none"> A guarantee of access to existing permitted or authorized capacity at a A binding guarantee of access and tonnage capacity to an existing and fully permitted facility, activity, operation, or property that recovers organic waste. A guarantee of access to new or expanded capacity at a fully permitted facility, activity, operation, or property that recovers organic waste that will be available prior to the end of the reporting period. 	<p>The purpose of this section is to require counties, in coordination with cities 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 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 recovery organic waste. This will help increase organic waste recovery in California. A county is not required to account for waste generated outside its boundaries. Counties are required to identify the amount of organic waste that will be generated within the county and identify locations that can recycle that material that are verifiably available to the county and its jurisdictions. The capacity does not have to be located within the county's physical borders. It is true that one facility's verifiably available capacity may be used by a jurisdiction located outside of the county. In this case the county and its jurisdiction may have to locate another facility or contemplate the development on new capacity so they can meet their obligation to demonstrate that they have verifiable access to organic waste recycling capacity. This is necessary to ensure the sufficient organic waste recycling capacity is available for the state to achieve and maintain the organic waste reduction targets of SB 1383.</p>

Comment Number	Received From	Question/Comment	Response(s)
3723	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>Cities or regional agencies are required to respond within 120 days to a county when contacted about the amount of organic waste in tons that will be disposed by the cities. A similar requirement also needs to be imposed on non-local entities and local education agencies because most likely these entities will be using facilities/capacity within the said county. Since counties are penalized financially for failing to estimate organic waste disposed, the Task Force recommends including language within this section that ensures that counties are not liable if cities, non-local entities, local education agencies or regional agencies fail to respond within the given time frame.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) A city, non-local entity, local education agency or regional agency contacted by a county pursuant to subdivision (a) shall 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.</p> <p>(1) If a city, non-local entity, local education agency or regional agency does not provide the necessary information to the County within the required timeframe, the County will not be held liable for failing to fully comply with requirements of this Article 11. report on this jurisdiction's organic waste disposal.</p>	<p>Comment noted. CalRecycle would consider appropriate responsibility for failure to comply with capacity planning mandates and would exercise its enforcement discretion as appropriate. No change to the regulatory language is necessary.</p>
3724	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>The regulations state that the county shall conduct community outreach regarding locations being considered for new or expanded facilities, in- or outside the county. We recommend that this responsibility be the role of the jurisdiction (host city or host county for unincorporated area) in which the new or expanded facility is being proposed, and not solely the role of the county regardless of the location of the new or expanded facility.</p> <p>In addition, the regulations state that haulers and owners of facilities, operations, and activities that recover organic waste shall respond to the jurisdiction regarding potential new or expanded capacity at their facilities; however, it does not include "existing capacity".</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(c) In complying with this section, the county, city, and/or regional agency depending on the location of the facility or activity shall:</p> <p>(1) Consult with the Enforcement Agency and the local task force created pursuant to Section 40950 of the Public Resources Code on the status of locations for new or expanded solid waste facilities including the potential capacity increase each facility may provide if approved.</p> <p>(2) Consult with haulers and owners of facilities, operations, and activities that recover organic waste including, but not limited to, compost facilities, in-vessel digestion facilities, and Publicly Owned Treatment Works to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities.</p>	<p>The community outreach required in Section 18992.1(c)(3) is intended for the facilities or activities located within the county. Counties can work in coordination with cities to provide this outreach. Nothing precludes cities from providing outreach. CalRecycle also addressed the timeframe and adding "existing and."</p>

Comment Number	Received From	Question/Comment	Response(s)
		(A) Entities contacted by a jurisdiction shall respond within 60 days of receiving the request to the jurisdiction regarding existing and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes	
3725	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>The regulations state that the county shall conduct community outreach regarding locations being considered for new or expanded facilities. The regulations should clarify if this outreach must be done throughout an entire city that a new or expanded facility is being considered or within a radius of a certain number of miles from the address at which the facility is being proposed.</p> <p>For example, if a facility is being considered in City A, does the outreach need to take place in all areas of City A, only or does it need to take place within an "X" mile radius of the proposed facility?</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(3) 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. The community outreach shall:</p> <p>(A) Be conducted within a X mile radius of the location of the proposed new or expanded facility.</p> <p>(A)(B) Include at least one of the following forms of communication: public workshops or meetings, print noticing, and electronic noticing.</p> <p>(B)(C) If applicable be conducted in coordination with potential solid waste facility operators that may use the location identified by the county.</p> <p>(C)(D) Specifically include communication to disadvantaged communities that may be impacted by the development of new facilities at the locations identified by the county. If more than five percent of that community is defined as "Limited English Speaking Households," or "linguistically isolated," as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a language or languages that will assure that the information is understood by that community.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3726	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning</p> <p>According to SB 1383, CalRecycle, in consultation with CARB, shall adopt regulations that achieve the specified targets for reducing organic waste in landfills (i.e., a 50-percent reduction by 2020 and a 75-percent reduction by 2025). The current draft of the regulations state that a jurisdiction that lacks sufficient capacity shall "demonstrate how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period." The way it is currently written, it appears that the regulations are requiring that all organic waste that is currently disposed be recovered (or planned for recovery) by the end of the report period.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: 	A change to the regulatory text is not necessary because the proposed change would entail placing a numerical limit on a jurisdiction, which is not allowed by the statute.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(d) If a county determines that organic waste recycling capacity, in addition to the existing and proposed capacity identified pursuant to subsection (a), is needed within that county, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity that each jurisdiction is required to:</p> <p>(1) Submit an implementation schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover an amount of the organic waste that is equivalent to a 50-percent reduction in 2014 organic waste disposal levels by 2020, and a 75-percent reduction by 2025 currently disposed by generators within their jurisdiction by the end of the report period set forth in Section 18992.3 of this article.</p>	
3727	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning Including options that would require jurisdictions to plan for obtaining funding or provide financial support for expansion of organic waste recycling facilities would put an undue burden on jurisdictions. The Task Force recommends that this language be removed and replaced with other options including efforts by the Department and State to promote the development of new facilities.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d)(1) Submit an implementation schedule plan to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover the organic waste currently disposed of by generators within their jurisdiction by the end of the report period.</p> <p>(A) The implementation schedule plan shall include timelines and milestones for planning efforts to access strategies for ensuring additional new or expanded capacity, including, but not limited to:</p>	Section 18992.1 does not contain language regarding funding.
3728	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning "Identify" is spelled incorrectly.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(d)(2) Identify Identify proposed new or expanded organic waste recycling facilities that will be used to process the organic waste identified pursuant to subsection (a)(3).</p>	Thank you for the comment, the error was corrected.
3729	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.1. Organic Waste Recycling Capacity Planning For capacity planning purposes, the regulations include "digestate and biosolids" within the organic waste material types. In the latest version of CalRecycle's Characterization of Solid Waste in California report, these two materials are not included in the report. Since the regulations lists the waste characterization study as a means to estimate the countywide disposal, will CalRecycle provide counties with the disposal composition of these materials to assist in the capacity planning analysis? We recommend that CalRecycle provide counties with the statewide</p>	CalRecycle has revised Section 18992.1(f) in response to this comment. The change adds another information source that can be used for this requirement. The change is necessary because statewide or local characterization studies typically do not characterize digestate/biosolid, as they are not a part of the commercial and residential waste stream. 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/biosolids. This data would be used in addition to either statewide or local characterization studies.

Comment Number	Received From	Question/Comment	Response(s)
		disposal composition of digestate and biosolids before the first capacity plan is due to CalRecycle on February 1, 2022.	The RDRS 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 onsite). Since this data will include large generators, CalRecycle will include this data in the capacity planning tool.
3730	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18992.2. Organic Edible Food Recovery Capacity Counties are required to "Estimate the amount of edible food that will be disposed of by commercial edible food generators . . .". Currently, there are no tools to quantify the amount of edible food in the disposal stream. Therefore, we recommend that CalRecycle provide Counties with a methodology to estimate the amount of edible food within the disposal stream.	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
3731	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	Section 18992.2. Organic Edible Food Recovery Capacity It should be recognized the local task force created pursuant to Section 40950 of the Public Resource Code can be an asset to the county and the cities within the county in data collection and planning efforts listed in Section 18992.2 (a). In addition, the regulations should include a requirement on cities, regional agencies and edible food recovery organizations to respond to and provide the requested capacity data/information to Counties or other applicable jurisdictions for edible food capacity planning purposes. Additionally, in Section 18992.2(a)(3), counties are required to "Identify proposed new or expanded edible food recovery organizations". Additionally, in Section 18992.2(b)(2), jurisdictions are required to "Consult with edible food recovery organizations. . . regarding existing, or proposed new and expanded capacity". This appears to be a very repetitive requirement. We recommend that Counties be required to focus on existing edible food recovery capacity and cities (jurisdictions) be required to focus on the new or expanded edible food recovery capacity. Proposed Regulatory Text and Recommended Changes/Revisions: (a) Counties in coordination with cities, and regional agencies located within the county, and the local task force created pursuant to Section 40950 of the PRC shall: (1) Estimate the amount of edible food that will be disposed of by commercial edible food generators that are located within the county and jurisdictions within the county. (2) Identify existing capacity at edible food recovery organizations that is available to commercial edible food generators located within the county and jurisdictions within the county. (3) Identify proposed new or expanded edible food recovery organizations that will be used to process edible food identified pursuant to subsection (1). (4) (3) Identify the amount of capacity at edible food recovery organizations that is necessary to recover 20 percent of the edible food that is estimated to be disposed.	Regarding the comment that "the regulations should include a requirement on cities, regional agencies, and edible food recovery organizations to respond to and provide the requested capacity data and information to Counties or other applicable jurisdictions for edible food capacity planning purposes." CalRecycle agrees with this comment and added language to the regulatory text specifying that if a jurisdiction or regional agency fails to provide the county with the information necessary to comply with the Article within 120 days, then the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3. If a jurisdiction fails to comply with their requirements under Article 11, then the jurisdiction could be subject to enforcement action. With regard to the commenter's suggested changes to the edible food recovery capacity planning requirements, a change to the regulatory text was not necessary. A change to the regulatory text was not necessary because in order for a jurisdiction to be able to implement an effective edible food recovery program it is critical that they are familiar with the food recovery organizations and services that operate in their jurisdiction and identify proposed new or expanded edible food recovery organizations and food recovery services in case the demand for recoveries grows in their area. Even if the demand did not increase, this is still very important information to identify especially if a major food recovery organization or service stops operating in the jurisdiction. Each requirement in Section 18992.2 is critical to ensure that edible food recovery capacity is expanded, and that jurisdiction edible food recovery programs are successful. Each requirement in Section 18992.2 is in place to help ensure effective capacity planning measures are taken, which will ultimately serve to help keep edible food out of landfills, and be redirected to help feed people in need.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(b) A city or regional agency contacted by a county pursuant to subdivision (a) shall 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.</p> <p>(c) Food recovery organizations contacted by a jurisdiction shall respond to the jurisdiction regarding potential new or expanded food recovery capacity at their facilities, operations, and activities.</p> <p>(b) (d) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction(s) within that county that lacks capacity shall.</p>	
3732	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18992.2. Organic Edible Food Recovery Capacity</p> <p>The Task Force recommends that this section be expanded to add a subsection including appropriate provisions for compliance by non-local entities and local education agencies a consistent with requirements of this Article 11.</p>	<p>A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.</p>
3733	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>For the purpose of this Article, the discussions and requirements need to be expanded to include appropriate provisions for compliance by non-local entities and local education agencies consistent with requirements of this article.</p>	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
3734	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>While the Task Force recognizes the need and importance of market development, such efforts must be mandated by legislative authority with associated funding to assist local jurisdictions. The Task Force recommends that the requirement for local jurisdictions to procure recovered organic waste products be eliminated from the regulations, since this requirement is not supported by legislative authority.</p>	<p>SB 1383 provides a broad grant of regulatory authority to the Department in Public Resources Code Section 42652.5, "The department, 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." That section also provides that the Department may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, the Department also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where the Department successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority' The [administrative agency] is authorized to 'fill up the details' of the statutory scheme."</p> <p>Consistent with CalRecycle's broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission's 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that "state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas." As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board's Short Lived Climate Pollutant Strategy states, "CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products."</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle’s 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p>
3735	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target In addition to compost and renewable transportation fuel, CalRecycle should add electricity generated from recycled organic waste to the list of recycled organic waste products that may be procured to meet the recovered organic waste procurement target. In-vessel digestion and biomass conversion are activities deemed to constitute a reduction in landfill disposal per Section 18983.1(b) (3) and (4) of the proposed regulations, respectively. In-vessel digestion produces biogas and biomass conversion produces syngas, both of which can be used to produce renewable natural gas (RNG) and electricity, as well as transportation fuel. and a variety of options to meet the procurement target. Producing compost in densely-populated urban and suburban jurisdictions can be challenging due to odors, space constraints, and permitting issues. The stringent requirements for pipeline injection of RNG transportation fuel in the state will make it extremely challenging for jurisdictions to procure RNG transportation fuel from remote production facilities and will require each jurisdiction to develop several of its own RNG production and on-site fueling facilities. CalRecycle needs to be a tool rather than an obstacle in promoting development of facility using emerging technologies (such as low- and mid- temperate thermal conversion technologies) to develop products in assisting the reduction of organic waste landfill disposal.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
3736	<p>Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments</p>	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target Should CalRecycle pursue any mandatory procurement requirements, then CalRecycle should phase in such requirements since the availability of these products may be limited in the first few years of program implementation and jurisdictions should not be penalized if they are unable to procure the required amounts of these products. Proposed Regulatory Text and Recommended Changes/Revisions: (f) For the purposes of this article, the recycled organic waste products that must may be procured are: (1) Compost. (2) Renewable transportation fuel (3) Electricity (4) Renewable natural gas (5) Any other recycled organic waste products approved by the Department (g) The following conversion factors shall be used to convert tonnage in the annual recycled organic waste product procurement target for each jurisdiction to equivalent volumes of recycled organic waste products: (1) One ton of organic waste in a recycled organic waste product procurement target shall constitute: (A) 19 diesel gallon equivalents, or "DGE," of renewable transportation fuel (B) 0.58 tons of compost. (C) XX kilowatts of renewable electricity (D) XX cubic feet of renewable natural gas</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding an open-ended pathway for approval of "any other recycled organic waste products", CalRecycle disagrees with this approach for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. As noted above, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>

Comment Number	Received From	Question/Comment	Response(s)
3737	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	For the purpose of this Article, include a section to stipulate appropriate provisions for compliance by non-local entities and local education agencies consistent with requirements of this article.	A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.
3738	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18994.2. Jurisdiction Annual Reporting</p> <p>The Task Force recommends that CalRecycle clarify that the jurisdictions' reporting requirements under this Article 13 exclude non-local entities and local education agencies not receiving services through local jurisdictions' collection systems.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(b) Each jurisdiction shall report the following, relative to its implementation of the organic waste collection requirements of Article 3 of this chapter:</p> <p>(1) The type of organic waste collection service(s) provided by the jurisdiction to its generators with the exception of non-local entities and local education agencies.</p> <p>(2) The total number of generators that receive each type of organic waste collection service provided by the jurisdiction with the exception of non-local entities and local education agencies.</p>	If non-local entities and local education agencies are not generators receiving collection services from a jurisdiction, they are not part of the reporting requirements.
3739	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18994.2. Jurisdiction Annual Reporting</p> <p>Requiring a jurisdiction to be responsible for all tracking and reporting of self-haulers and non-exclusive franchise haulers as stipulates in subsections (d) and (f) requires strict regulation, inspection and enforcement activities by the jurisdiction while placing significant activities on small businesses like landscapers, small community composter, etc. To reduce the impact of this costly and time-consuming requirement, the proposal should allow the information collected from affected self-haulers pursuant to AB 901, Chapter 746 of the 2015 State Statutes.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(d) Each jurisdiction shall report the following relative to its implementation of waivers pursuant to Article 3.</p> <p>(1) The number of days an emergency circumstances waiver as allowed in 18984.13 was in effect and the type of waiver issued.</p> <p>(2) The tons of organic waste that were disposed as a result of waivers identified in (1).</p> <p>(3) The number of generators issued a de-minimis waiver.</p> <p>(4) The number of generators issued a physical space waiver.</p> <p>(5) A jurisdiction that receives a waiver from the Department pursuant to Section 18984.12 of Article 3 shall report the following information for each year the waiver is in effect:</p>	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions so that the Department can review the jurisdiction's compliance with these requirements and the other requirements of this Chapter, including but not limited to the jurisdiction's implementation and enforcement of the Chapter within their jurisdiction. Unfortunately, the AB 901 regulations will not be collecting the data for tons disposed due to waivers or by self-haulers. A jurisdiction has the discretion to include a process to track this information in their local ordinances.

Comment Number	Received From	Question/Comment	Response(s)
		<p>(A) The number of generators waived from the requirement to subscribe to an organic waste collection service.</p> <p>(6) In lieu of the above, the jurisdiction and self-haulers can utilize the data collected pursuant to AB 901, Chapter 746 of the State Statute of 2015.</p> <p>(f) A jurisdiction shall report the following regarding its implementation of the hauler oversight requirements of Article 7.</p> <p>(1) The number of haulers approved to collect organic waste in the jurisdiction.</p> <p>(2) The Recycling and Disposal Reporting System number of each facility that is receiving organic waste from haulers approved by the jurisdiction.</p> <p>(3) The number of haulers that have had their approval revoked or denied.</p> <p>(4) The number of self-haulers approved to operate within the jurisdiction.</p> <p>(5) The total amount, in tons, of source separated organic waste that was self-hauled by organic waste generators and reported to the jurisdiction pursuant to Section 18988.3.</p> <p>(6) In lieu of the above, the jurisdiction and self-haulers can utilize the data collected pursuant to AB 901, Chapter 746 of the State Statute of 2015.</p>	
3740	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	For the purpose of this Article, include a section to stipulate appropriate provisions and identify/specify the entity that would be responsible to measure compliance {i.e. conduct inspection(s), take enforcement action(s), recordkeeping, and possible imposition of penalties} of non-local entities, including federal agencies/facilities) and local education agencies} with appropriate requirements of this Article.	Comment noted. The Department has enforcement authority over these entities as described in Sections 18996.5, 18996.6, 18996.7.
3741	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18995.1. Jurisdiction Inspection and Enforcement Requirements</p> <p>There is concern with maintaining confidentiality of some information in that in order to comply with the regulations, the jurisdiction would need to provide its customer lists to CalRecycle.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <p>(c) A jurisdiction shall generate a written report for each inspection, route review, and compliance review conducted pursuant to this Chapter. Each report shall include, at a minimum, the following information, unless such information is restricted by a confidentiality agreement or considered proprietary information:</p> <p>(1) Identifying information for the subject or subjects of the inspection, route review or compliance review, such as, but not limited to:</p> <p>(A) The name or account name of each person or entity.</p> <p>(A B) A general description of the route and address location covered by a route review.</p> <p>(B-C) A general description of the list of accounts reviewed for each compliance review.</p>	The documentation of inspections, route reviews, and compliance reviews are not reports to CalRecycle but instead are records to be maintained as a compliance record for the jurisdiction. The Public Records Act has provisions for the protection from disclosure of confidential and proprietary information and the proposed regulatory language reflects that.

Comment Number	Received From	Question/Comment	Response(s)
3742	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>(C) A list of accounts, including addresses along with names of the account holders, determined by the jurisdiction to be subject to enforcement actions.</p> <p>Section 18996.2. Department Enforcement Actions Over Jurisdictions Pursuant § 42653 of the PRC, CalRecycle and CARB (not local jurisdictions) are responsible for identifying the barriers to organic waste recycling, the status of new organics recycling infrastructure development, the commitment of state funding to support infrastructure expansion, the progress in reducing regulatory barriers to the siting of organics recycling facilities, the timing and effectiveness of policies that will facilitate the permitting of organics recycling infrastructure, and the status of markets for the products generated by organics recycling facilities. Therefore, the Task Force recommends that the regulatory language include allowances for jurisdictions and other entities that demonstrate a substantial effort to comply with the regulations but are unable to do so due to factors outside of their control. Furthermore, the Task Force recommends that CalRecycle revise the regulations to incorporate provisions for jurisdictions demonstrating a “good faith effort” to comply. Public Resources Code § 42652.5 (4) states, “The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825...” (See General Comment A.2.b).</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ul style="list-style-type: none"> (a) If the Department finds that a jurisdiction is violating one or more of the requirements of this Chapter, and has not made a good faith effort to fulfill these requirements, then the Department may take the following actions: <ol style="list-style-type: none"> Hold a public hearing, which, to the extent possible, shall be held in the local or regional agency’s jurisdiction, to determine whether or not the jurisdiction has failed to make a good faith effort towards compliance. (1) (2) Issue a Notice of Violation requiring compliance within 90 days. An extension may be granted for an additional 90 days, if the jurisdiction submits a written request to the Department within 60 days of the Notice of Violation’s issuance that includes: <ol style="list-style-type: none"> Evidence that additional time is needed to comply. The steps the jurisdiction will take to correct the violation, including demonstration that it can comply within 180 days of the Notice of Violation’s issuance date. (2) (3) The Department may extend the timeframe for a jurisdiction to comply beyond 180 days from the Notice of Violation issuance date by issuing a Corrective Action Plan (CAP) for up to 24 months, setting forth steps to achieve compliance, if the jurisdiction has demonstrated, that it has made a substantial good faith effort to comply and there are extenuating circumstances that have prevented it from complying. <ol style="list-style-type: none"> A jurisdiction shall submit a written request for the extension at least 30 days prior to the Notice of Violation final compliance date. The request shall provide documentation demonstrating its substantial good faith effort to comply, and the 	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>extenuating circumstances which prevents it from complying, and identify the critical milestones that the jurisdiction would need to meet in order to comply within 24 months. 1. If a jurisdiction claims that the cause of the delay is inadequate capacity of organic waste recovery facilities, it shall document the lack of capacity and demonstrate that it has provided service where possible and that it has only delayed compliance with this chapter for areas where service cannot be provided due to capacity limits. Implementation schedules, under Article 11, may be considered for purposes of developing a Corrective Action Plan; however, the Department may set compliance milestones other than those provided in the Implementation Schedule.</p> <p>(B) For the purposes of this section, “substantial good faith effort” means that a jurisdiction has taken all practicable actions to comply. Substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply with the Chapter, including, but not limited to, a failure to provide staff resources, a failure to provide sufficient funding to assure compliance, or failure to adopt required ordinances.</p> <p>(C) For the purposes of this section, “extenuating circumstances” means that a delay in compliance has been caused by:</p> <ol style="list-style-type: none"> 1. Circumstances outside of a jurisdiction’s control; including acts of God and declared emergencies such as earthquake, fires, flooding, or delays in obtaining discretionary permits or other government agency approvals, or failure of non-local entities or local education agencies, located within the jurisdiction, to fully comply with requirements of this chapter. 2. A long term infrastructure or capacity change which requires a corresponding longer length of time to achieve compliance. 3. lack of adequate markets for the products produced from organic waste recycling activities. <p>(D) For the purposes of this section, “critical milestones” means all actions necessary for a jurisdiction to comply, including, but not limited to, receiving approval by decision-making bodies, permit application submittals and obtaining approvals, and tasks associated with the local contract approvals. (3 4) A Corrective Action Plan shall be issued by the Department for no longer than 24 months and shall include compliance dates for each milestone that describe the tasks and timeframe the jurisdiction needs to take to achieve full compliance by a final compliance date. The Corrective Action Plan shall include the penalties that may be imposed if a jurisdiction fails to comply by the final compliance date and may also include penalties for failing to meet milestones by the specified dates.</p> <p>(b) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to fulfill its responsibilities or obligations as required by this Chapter, but is unable to fulfill those responsibilities or obligations due to factors outside of its control then the Department may consider a hardship allowance for said jurisdiction.</p>	

Comment Number	Received From	Question/Comment	Response(s)
3743	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.3. Department Enforcement When Jurisdiction Fails to Enforce -- See previous comment Section 18996.2.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ul style="list-style-type: none"> (a) If a jurisdiction fails to enforce the requirements set forth in this chapter, and has not made a good faith effort to do so, the Department may take enforcement action against an entity pursuant to Section 18996.9 of this chapter and also enforcement action against the jurisdiction pursuant to this article after providing the jurisdiction with: <ul style="list-style-type: none"> (1) Written documentation of its lack of appropriate enforcement action. (2) A request to hold a public hearing, which, to the extent possible, shall be held in the local or regional agency's jurisdiction, to determine whether or not the jurisdiction has failed to make a good faith effort towards compliance. (2) (3) A written request to take enforcement action against the entity pursuant to Article 14 of this chapter or evidence within 60 days that the entity is in compliance. (b) If the Department determines a good faith effort has not been made, the The Department may seek administrative penalties against the jurisdiction pursuant to Article 16 if the jurisdiction fails to take enforcement action as requested pursuant to subsection (a) (2). (c) If a jurisdiction can demonstrate to the Department that it has made a good faith effort to enforce the requirements set forth in this chapter but is unable to fulfill those responsibilities or obligations due to factors outside of its control then the Department may consider a hardship allowance for said jurisdiction. 	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>
3744	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.6. Department Inspections and Compliance Review of State Agencies and Facilities</p> <p>See General Comment A.1.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ul style="list-style-type: none"> (a) If the Department finds that a state agency is violating Article 4, 5, 7, 8, 10, 11, 12, or Article 13 of this chapter, then the Department may take the following progressive enforcement actions: <ul style="list-style-type: none"> (1) Issue a Notice of Violation requiring compliance within 90 days. If the state agency or state facility provides sufficient evidence that additional time is needed to comply, it may request, and the Department may grant an additional 180-day extension. The state agency or state facility extension request shall include: <ul style="list-style-type: none"> (A) An explanation of why the violations have occurred, and all steps that have been taken to comply with this chapter. (B) An explanation as to why it cannot correct the violation by the compliance date. (C) A proposed set of tasks and milestones necessary for the state agency or state facility to comply and an explanation and justification of the proposed timeline. (D) Any additional information that supports the request to delay enforcement action. (2) If the department issues a Notice of to a state agency or facility it shall include, but is not be limited to: 	<p>A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(A) A description of the violation and regulatory section that is the basis of the violation.</p> <p>(B) Identification of the actions the state agency or state facility shall take to correct the violation(s).</p> <p>(C) The timeframe in which each of the actions must be taken.</p> <p>(D) The actions in subsection (a)(3) of this section that the Department may take if the state agency or facility fails to comply</p> <p>(3) If a state agency or state facility fails to comply with a Notice of Violation, the Department may take the following enforcement actions:</p> <p>(A) List the state agency or state facility on the Organic Waste Recovery Noncompliance Inventory described in Section 18997.4 of this chapter.</p> <p>(B) Request that the Department of General Services (DGS) conduct an audit of the state agency or state facility for compliance with Public Contract Code (PCC) Section 12217(a).</p> <p>(C) Notify the Governor.</p> <p>(D) Notify the Legislature.</p> <p>(E) Unless prohibited by State law, following the Legislature notification, the Department may impose administrative civil penalties on a state agency or state facility found in violation of Articles 4, 5, 7, 8, 10, 11, 12 or 13. The penalty amount shall be equivalent to those listed in Article 16 for a similar entity.</p> <p>(4) The Department may not extend a compliance deadline in a Notice of Violation if the Department determines that the state agency or state facility has not made substantial efforts to comply with this chapter.</p> <p>(A) For the purposes of this section, “substantial effort” means that the state agency or state facility has taken all practicable steps to comply. Substantial effort does not include failure by the state agency or facility to take the necessary steps to comply, including, but not limited to, not providing adequate staff resources, failing to provide sufficient funding to assure compliance with the Chapter, or failure to adopt required policies</p>	
3745	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.7. Department Enforcement Action Regarding Local Education Agencies</p> <p>See General Comment A.1.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: <ul style="list-style-type: none"> (a) If the Department finds that a local education agency is violating this chapter, the Department may issue a Notice of Violation requiring compliance within 90 days. If the local education agency fails to comply with the Notice of Violation, the Department may list the local education agency or a non-local entity on the Organic Waste Recovery Noncompliance Inventory pursuant to Section 18997.4. (b) Unless prohibited by State law, following the Legislature notification, the Department may impose administrative civil penalties on a local educating Agency found in violation of this chapter. The penalty amount shall be equivalent to those listed in Article 16 for a similar entity. 	The Department is declining to include penalties on local education agencies in this rulemaking because SB 1383 provides such discretion in whether to require administrative civil penalties in all cases. The Department may consider changing this model in future rulemaking action.

Comment Number	Received From	Question/Comment	Response(s)
3746	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18996.9. Department Enforcement Actions Against Entities See comment on 65 on Section 18996.2., and define the term "entity".</p> <ul style="list-style-type: none"> • Proposed Regulatory Text and Recommended Changes/Revisions: <ul style="list-style-type: none"> (a) The Department may take enforcement action against organic waste generators, including commercial edible food generators, haulers, and food recovery organizations and services, where a jurisdiction has failed to enforce this chapter and has not made a good faith effort to do so or where the entity is a non-local entity that is not a state agency or facility subject to enforcement under Section 18996.6 or a local education agency subject to enforcement under Section 18996.7. (b) If an entity has been found in violation, the Department shall: <ul style="list-style-type: none"> (1) For a first violation: <ul style="list-style-type: none"> (A) Hold a public hearing, which, to the extent possible, shall be held in the entity's jurisdiction, to determine whether or not the entity has failed to make a good faith effort towards compliance. If the Department determines that a good faith effort has not been made, the Department shall issue issue a Notice of Violation (NOV) requiring compliance within 60 days. (B) If the violation continues after the NOV compliance date, the Department shall issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply. (C) If the violation continues after the NOTC compliance deadline of 30 days, the Department shall commence action to impose a penalty on the entity no later than 90 days after the issuance of the NOTC. (2) For a second violation and all subsequent violations: <ul style="list-style-type: none"> (A) Issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential penalties for failing to comply. (B) If the violation continues after the NOTC compliance deadline, the Department shall commence action to impose a penalty on the entity no later than 90 days after its determination of the violation. (c) The Department may grant extensions to the compliance deadlines set forth in subsection (b) if it makes the following findings: <ul style="list-style-type: none"> (1) The entity is making timely progress toward compliance, and (2) The entity's failure to comply within the deadline is due to: <ul style="list-style-type: none"> (A) Extenuating circumstances outside its control, including a correction to a long term infrastructure or capacity change which requires a correspondingly longer length of time to achieve compliance. Examples of extenuating circumstances include acts of God such as inclement weather, and earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters, and delays in obtaining discretionary permits or other government agency approvals, but where the entity's actions or failure to act was not the cause of the delay 	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(B) Limitations in infrastructure and the jurisdiction in which it is located is under a Corrective Action Plan (CAP) pursuant to Section 15.2 due to long term infrastructure or capacity deficiencies.</p> <p>(d) The Department shall provide the following information in any Notice of Violation or other enforcement notices:</p> <p>(1) The account name, name, or names of each person or entity to whom it is directed. Notices must go to the legally responsible party, such as a business owner, service account holder, property owner, etc.</p> <p>(2) The list and description of the violations of this chapter, including the section of this chapter being violated.</p> <p>(3) A compliance date by which the entity is to take specified action(s).</p> <p>(4) The penalty for not complying within the specified compliance date</p> <p>(e) If an entity can demonstrate to the Department that it has made a good faith effort to comply with the requirements set forth in this chapter, but is unable to fulfill those responsibilities or obligations, due to factors outside of its control, then the Department may consider a hardship allowance for said entity.</p>	
3747	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Article 16 needs to be expanded to provide and discuss in detail the following:</p> <p>(a) The process and the time frame that an affected organic waste generator and/or an entity could appeal the Department's decision regarding compliance with the requirements of this chapter and the agency that the appeal must be filed with.</p> <p>(b) What are the allowable uses of revenue generated from the collected penalties and the agency with the decision-making authority for its use?</p>	<p>To clarify, both local jurisdictions and CalRecycle have enforcement responsibilities under the proposed regulations. Procedures for CalRecycle's imposition of administrative civil penalties and related hearings are already included in Sections 18997.5 and 18997.6 of the proposed regulations. Administrative procedures for jurisdictional imposition of administrative civil penalties are committed to local discretion and control as informed by due process and other applicable requirements, such as Government Code Section 53069.4.</p> <p>Regarding uses of penalty revenue, SB 1383 was silent on this issue. As such, use of local penalty revenue is left to applicable local requirements and discretion. Department penalty revenue is required to be deposited in the Integrated Waste Management Account pursuant to Public Resources Code Section 47901 and appropriated consistent with the requirements of Government Code Section 13332.18.</p>
3748	Rapp L., City of Lakewood -- refers to Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force comments	<p>Section 18997.2. Penalty Amounts</p> <p>See General Comment A.2.a.</p> <p>The monetary penalties for Property and Business Owners should not be based on established penalty severity levels. The penalties should have a maximum limit so as not to disproportionately penalize certified small businesses, non-profit organizations, or other entities for whom the penalties may cause substantial hardship.</p> <p>The monetary penalties for residential organic waste generators should be given their own category in Table 1 separate from all other organic waste generators. The penalties for residential organic waste generators should not be based on established penalty severity levels. The penalties should have a maximum limit so as not to disproportionately penalize economically disadvantaged communities in the state.</p> <ul style="list-style-type: none"> Proposed Regulatory Text and Recommended Changes/Revisions: 	<p>CalRecycle has revised section 18997.2 in response to this comment. The change modified 18997.2(b) to be consistent with local penalty requirements in the Government Code by removing per day penalties.</p> <p>Also, A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section, except in cases where these penalties may cause substantial hardship to certified small businesses, non-profit organizations, economically disadvantaged communities, or other applicable entities, and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b).</p> <p>Table 1 can be viewed in the original comment letter.</p> <p>(b) Consistent with the requirements prescribed in Government Code Sections 53069, 25132 and 36900, the penalty severity levels are as follows:</p> <p>(1) For a violation classified as Level 1, the amount of the base penalty may be \$50–\$500 per violation.</p> <p>(2) For a violation classified as Level 2, the amount of the base penalty may be \$250–\$1000 per violation.</p> <p>(3) For a violation classified as Level 3, the amount of the base penalty may be \$500–\$2,500 per violation.</p> <p>(c) For the purposes of subsection (a), revoking, suspending, or denying a permit, registration, license, or other authorization shall be considered stricter than the penalties in this section.</p> <p>(d) For a violation classified as Level 0, certified small businesses, non-profit organizations, residents of economically disadvantaged communities, and other applicable organic waste generators may submit an application to the Department or to the jurisdiction imposing penalties requesting the penalties to be waived due to substantial economic hardship.</p> <p>Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939]), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.</p>	
3678	Rapp, L., City of Lakewood	The City supports Statewide efforts to reduce greenhouse gas (GHG) emissions, including SLCP emissions. However, we are concerned that the proposed regulations, as currently drafted, place a disproportionate burden on local governments to achieve the desired SLCP emissions reductions (more than any other stakeholder group, including State agencies). The City is also concerned that the proposed regulations are highly punitive and rely on excessive	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.

Comment Number	Received From	Question/Comment	Response(s)
		<p>micromanagement and reporting, which would further add to the expected high cost of implementing the new requirements for all affected stakeholders.</p> <p>For these reasons, the City of Lakewood shares the concerns and recommendations expressed in the enclosed February 25, 2019, letter from the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force to CalRecycle in referenced to the subject matter.</p>	
2026	Redic, Wanda; Oakland Public Works	<p>Edible Food Generators are usually heavily regulated and inspected by Environmental Health agencies state-wide as well as a host of other agencies. Additional inspections by an additional agency is onerous and disruptive to a business operation. Additionally, solid waste and recycling staff do not have the expertise needed to inspect these businesses to determine whether they are in compliance with proper handling of food that is intended for donation. For example, if a donor does not maintain food at a certain temperature while awaiting collection, that food can be deemed as having been deliberately rendered unsuitable for donation. It will then become the responsibility of the receiving entity to compost it since it could not be donate</p>	<p>Section 18981.2 specifies that a jurisdiction may designate a public or private entity, which includes local environmental health departments to fulfill its regulatory responsibilities. If a jurisdiction designated their local environmental health department to monitor commercial edible food generator compliance, then the inspections would not be duplicative. Rather the local environmental health department could add to their existing food facility inspections to verify that commercial edible food generators are maintaining records.</p> <p>In addition, if a jurisdiction designated their environmental health department to monitor commercial edible food generator compliance, then health inspectors could also provide guidance to commercial edible food generators about safe surplus food donation best practices and food safety requirements. Please note that SB 1383 does not include food safety requirements. Food safety requirements are established by the California Health and Safety Code and enforced by environmental and public health departments.</p>
2027	Redic, Wanda; Oakland Public Works	<p>While we have attempted to include Env. Health staff in the planning process, we cannot compel them to assist us. We also do not have the reach necessary to gain cooperation from their management staff. Each jurisdiction desiring the same cooperation would have to spend time cultivating a relationship with the local environmental health agency. We urge CalRecycle to work with the proper State authority such as Department of Public Health to: gain cooperation with inspection implementation; make these inspections more efficient by adding them to the section of code the health inspectors reference. Env. Health professionals are already in these businesses and can perform inspections with the proper expertise which is more efficient and cost-effective. We would be happy to work out a division of labor to receive their reports and perform the necessary reporting obligations.</p>	<p>Comment noted. The commenter is expressing an opinion about dealing with practicalities in inspection requirements after the regulations are finalized as opposed to suggestions on regulatory language.</p>
2032	Redic, Wanda; Oakland Public Works	<p>Our existing franchise agreements are already set and we would not be able to increase rates to implement this legislation. The City would very much like guidance around enacting fees with details about available methods particularly in light of Prop. 218 and any other State legislation that may impact our ability to gain the revenue necessary to implement.</p>	<p>Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.</p>
6464	Relis, P., CR&R	<p>As a result of these forward looking efforts, CR&R is proposing that consideration be given to implementing a Performance Based source-separated collection system. We believe that implementation of a Performance Based source separation system as an "Alternative Compliance Pathway" (ACP) will offer the appropriate flexibility for those jurisdictions that have already proactively taken the initiative to</p>	<p>Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.</p>

Comment Number	Received From	Question/Comment	Response(s)
		commence with ambitious organic waste recycling programs. This will also ensure that their efforts and investments are not in vain.	
6465	Relis, P., CR&R	See letter. The main features of our ACP would include the following parameters: A jurisdiction would implement a Performance Based source-separated collection system that requires 90% of its generators to use a three-bin Source Separated Organic Waste Recycling program by 2025 and 75% of its generators use a three -bin source separated organic waste recycling program by 2020.	Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.
6466	Relis, P., CR&R	See letter. All organic waste contained in a green container would be required to be processed at a facility or facilities that recovers at least 50% in years 2020-2024 and 75% thereafter of the organic content the facility receives.	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6467	Relis, P., CR&R	See letter. A jurisdiction implementing this system would be considered in compliance with specific aspects of the prescribed collection requirements, e.g. education and outreach, contamination and monitoring and enforcement requirements. Record keeping and reporting requirements could be relaxed to reflect the more streamlined set of obligations.	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6468	Relis, P., CR&R	see letter for context A jurisdiction would be required to send material to a facility that meets the 50% and 75%, respective recovery standard. The facility recovery rate shall be based on a rolling annual average, where the average for the previous 12 months will be determined quarterly. If two consecutive quarters fall below 50/75 percent, the jurisdiction would be out of compliance.	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6469	Relis, P., CR&R	see letter for context The jurisdictions obligations under the ACP would be as follows: • The jurisdiction would be required to provide a mandatory three-bin organic waste collection system to every generator subject to its authority	Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision. Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.
6470	Relis, P., CR&R	see letter for context The jurisdiction could exempt up to 10% of generators from service beginning in 2025 and 25% of its generators from service beginning in 2020.	Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision. Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.
6471	Relis, P., CR&R	see letter for context The jurisdiction must have a system for requiring automatic service for new businesses and residences (e.g. business license, lease requirements, initial service start-ups and new construction requirements).	Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision. Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.

Comment Number	Received From	Question/Comment	Response(s)
6472	Relis, P., CR&R	see letter for context The source-separated organic waste (all organics in the green container) collected by the jurisdiction or its hauler must be transported to a facility that recovers 50% through the year 2024 and 75 percent thereafter of the organic content it receives.	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6473	Relis, P., CR&R	see letter for context The jurisdiction's disposal container waste must not exceed specified organic waste levels as expressed in regulations.	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6474	Relis, P., CR&R	see letter for context • The jurisdiction must comply with basic recordkeeping and reporting requirements to verify the above.	CalRecycle has revised Section 18988.3 in response to this comment. The change omits the requirement for a self-hauler to annually report the amount and location/address of source separated organic waste in tons that was self-hauled in the jurisdiction. In respect to Section 18994.1, the reporting requirement for the tons of organic waste that were disposed as a result of waivers identified in Subsection (1), the data collected in regard to AB 901 in the Recycling and Disposal Reporting System (RDRS) does not track the amount of organic waste disposed. If it is considered solid waste, the regulations do not require solid waste disposed to be divided between "trash" and "green material," so obtaining this information from RDRS is not possible.
6475	Relis, P., CR&R	The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP: • Article 3 - Organic Waste Collection Services o Section 18984.5 - Container Contamination Minimization - exempt from all this section o Section 18984.6 - Record Keeping for Container Contamination Minimization o Section 18984.7 - Container Color Requirements - exempt from all this section o Section 18984.8 - Container Labeling Requirements - exempt from all this section	Thank you for the comment. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.
6476	Relis, P., CR&R	see letter for context The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP: Article 4- Education related only to organic waste recycling -exempt from all (food recovery still applies)	Thank you for the comment. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements, including in Section 18985.1..
6477	Relis, P., CR&R	see letter for context The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP Article 12 - Procurement of Recovered Organic Waste Products o Section 18993.1- Recovered Organic Waste Product Procurement Target o Section 18993.2 - Record Keeping for Recovered Organic Waste Procurement Target	CalRecycle has revised the regulatory text to exempt rural counties and jurisdictions located within those counties from the procurement requirements until January 1, 2027.
6478	Relis, P., CR&R	see letter for context The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP: Article 14 - Enforcement Requirements o Section 18995.1- Jurisdiction Inspection and Enforcement Requirements o Section 18995.2 - Implementation Record and Recordkeeping Requirements	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6479	Relis, P., CR&R	see letter for context The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP: Title 14- Chapter 3 Minimum Standards - Article 6.2 - Operating Standards	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> o Sections 17409.5. - Load checking - Prohibited Wastes - exempt from all this section o Sections 1409.5.1 through 17409.5.5 and 17409.5.8 and 17409.5.11 -These activities shall be performed annually, rather than frequency currently required. o Section 17409.5.7 Load checking- Contamination in Source Separated Organic Waste - Exempt from all this section o Section 17409.5.10 - exempt from all this section 	
6480	Relis, P., CR&R	<p>see letter for context The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP: Chapter 3.1 Composting Operations Regulatory Requirements</p> <ul style="list-style-type: none"> • Article 5.0. Composting Operation and Facility Siting and Design Standards <p>o Section 17867. General Operating Standards - Eliminate Load Checking</p> <p>Chapter 3.2 In Vessel Digestion Operations and Facilities Regulatory Requirements</p>	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6481	Relis, P., CR&R	<p>see letter for context The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP:</p> <p>Article 2.0 - Siting and Design</p> <ul style="list-style-type: none"> o Section 17896.25. Load checking- Prohibited Wastes - Exempt from all this section o Section 17896.25.1- Load Checking- Contamination - Exempt from all this section <p>Article 3. Operating Standards for In Vessel Digestion Operations and Facilities</p> <ul style="list-style-type: none"> o Section 17896.44.1 Measuring Organic Waste in Residuals - Perform this activity annually, rather than frequency currently required 	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6482	Relis, P., CR&R	<p>see letter for context The jurisdiction would be waived from the following requirements and/or regulations under the proposed ACP:</p> <ul style="list-style-type: none"> • Title 27 Environmental Protection • Article 4 Section 20901. Load checking contamination <p>o Exempt from all this section</p>	See newly added Article 17, Performance-Based Source Separated Organic Waste Collection Service, addressing the need for a new alternative compliance pathway that was developed in response to comments.
6483	Relis, P., CR&R	<p>see letter for context If a jurisdiction fails to comply with the requirements of implementing Performance Based Source Separated Collection Systems, penalties will accrue until the jurisdiction begins to implement a compliant system as prescribed by the regulation.</p> <p>If, however it is determined that there are extenuating circumstances that prevent the facility from reaching its desired requirement of 50/75% goal through the ACP, jurisdictions shall have the opportunity to be provided relief consistent with Article 3 Section 18984.13 dealing with Emergency Circumstances.</p>	Comment noted. The commenter is reciting their understanding of regulatory requirements and is not suggesting a language change or commenting on the regulatory process.
3038	Reyes, G., County of Riverside	Remove Section 18083(c) At least once per quarter, the EA shall oversee a minimum of one (1) measurement as described in 14 CCR Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1, during an inspection required in subdivision (a).	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for

Comment Number	Received From	Question/Comment	Response(s)
		<p>a. The sections listed (14 CCR Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1) give LEAs authority to require operators to perform measurements and load checking, therefore not needed in Section 18083.</p> <p>b. The new section creates a mandate and a performance standard for the LEA, binding the LEA to a specific amount of time and effort to review one action at a facility. Current measurement time is estimated to be 3-5 hours.</p> <p>c. This section disregards LEA determination of compliance of a facility unlike the statements in the other sections that leaves the option of observation to the LEA. This is important because if a facility is determined to be consistently in compliance with measurement and load checking, the LEA is mandated to observe quarterly regardless instead of putting time and resources to less compliant facilities.</p>	statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
3039	Reyes, G., County of Riverside	<p>Revise Section 18984.11(a)(3)(A)(1) The jurisdiction, or its authorized hauler, demonstrates to the Solid Waste Local Enforcement Agency that less frequent collection than required by Section 17331 of Title 14 of the California Code of Regulations will not result in the propagation of vectors or other public health and safety, or nuisance issues.</p> <p>a. Section 18984 identifies the Solid Waste Local Enforcement Agency as the designee to allow less frequent collection whereas Section 17331 designates the Local Health Officer. This section conflicts with the section that it cites.</p> <p>b. As an LEA, we do not wish to be the designee for less frequent collection and would like it to remain a Health Officer duty.</p>	The regulations were revised to specify enforcement agency.
6416	Reynolds, City of Blythe	Among the concerns are a lack of local control, insufficient infrastructure capacity for organic waste collection and processing due to the City's remote location, access to funds in the State's Cap and Trade program to help local low-income disadvantage communities develop programs, and unrealistic compliance goals.	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
6417	Reynolds, City of Blythe	As currently drafted, the regulation is expected to impose a significant jurisdictional burden on program enforcement and recordkeeping, diverting already limited funds and resources.	A change to the regulatory text is not necessary. The reporting and recordkeeping requirements are the minimum amount needed to allow CalRecycle to ensure a jurisdictions compliance with

Comment Number	Received From	Question/Comment	Response(s)
			<p>the Chapter. The recordkeeping requirements also assist a jurisdiction in verifying and tracking their own progress and if they are complying with the law.</p> <p>The Chapter allows a jurisdiction the flexibility to fulfill its oversight role by adopting their own enforceable ordinances that are consistent with the requirements of the Chapter.</p>
6418	Reynolds, City of Blythe	Furthermore, the proposed penalty structure for generators of organic waste, specifically residents and small businesses, is excessive and is expected to disproportionately affect many of the City's low-income disadvantage residents.	<p>A change to the regulatory text is not necessary. Section 18984.4 states that organic waste generators, which includes residential generators, shall comply with the applicable local requirements adopted pursuant to Article 3 for the collection and recovery of organic waste by subscribing to collection service and if not subscribing to service, self-hauling organic waste in a manner that complies with the requirements of Article 7 of this Chapter. Section 18984.4 requires a jurisdiction to monitor generators using a three-container or two-container organic waste collection service to minimize prohibited container contaminants. If a jurisdiction observes prohibited container contaminants in a generator's containers on more than three consecutive occasions, the jurisdiction may impose additional contamination processing fee on the generator and may impose penalties. It is within the jurisdiction's discretion through its enforceable ordinance(s) on how to enforce non-compliant residential generators beyond what is required in the Chapter.</p> <p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>A jurisdiction has two years between 2022-2024 to preform outreach and educate the generators on the requirements of the Chapter. As described in section 18995.4, a jurisdiction can notice a generator found to be non-compliant. The generator has over 200 days to remedy the situation before a jurisdiction shall imposes penalties. Entities have a generous amount of time to come into compliance. A jurisdiction shall impose penalties for violations consistent with the graduated penalty amounts authorized in Sections 53069.4, 25132 and 36900 of the Government Code which is outlined in Section 18997.2(a).</p>
6419	Reynolds, City of Blythe	<p>Section 30.5 Container Contamination Minimization.</p> <p>1. Upon finding prohibited contaminants in a container the jurisdiction or its designee, shall contact the generator or provide written notice to the generator. Comment: It is not feasible to determine and identify individual generators that contaminate a route unless containers are checked individually. Our residential curbside program utilizes automated side loading vehicle and covered bins. Adhering to the proposed legislation would require route drivers to physically examine hundreds of containers on each route on a daily basis and additional staffing resources to issue notices and deal with upset residents. The City recommends exempting residential routes from the requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6420	Reynolds, City of Blythe	<p>2. Route review on randomly selected containers in all collection routes quarterly is infeasible. Comment: Despite covering a smaller geographic area than its neighboring regional cities, the City's franchised hauler services thousands of containers every week. A quarterly route review for all routes in the City is not possible without the addition of significant staffing and funding. It is not feasible for the collection truck operators to perform this task and complete their service routes in a timely manner. The required additional work will directly impact our franchise hauler. As a result, the City will likely see a significant price increase. The City recommends exempting residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6421	Reynolds, City of Blythe	<p>If a jurisdiction is informed by a solid waste facility operator that the waste collected by one of its haulers was servicing the jurisdiction's generators, then the jurisdiction or its designee shall: (1) investigate by physically inspecting containers along the route(s) that the contaminants came from to determine the sources of contamination.</p> <p>Comment: As in the previous comment, it is a significant administrative burden to determine individual generators that contaminate a route. Routes would need to be interrupted to inspect individual bins stop by stop, resulting in slower service levels and increased costs. The City recommends exempting single-family and multi-family residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6422	Reynolds, City of Blythe	<p>Waivers and Exemptions Granted by the Department</p> <p>Comment: Current waivers and exemptions do not include clarifying language for exempting, on a case-by-case basis from the regulations, jurisdictions that lack local organic waste processing infrastructure or neighboring regional infrastructure for</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>remote low-income, disadvantage communities. Language must be developed to address barriers to the availability of new or expanded organic waste infrastructure outside the control of jurisdictions that address the need for this exemption.</p>	<p>changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383’s organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
6423	Reynolds, City of Blythe	<p>Comment: This is a significant administrative, training, and logistical burden for small businesses to manage its excess edible food, if it generates any, until it can be retrieved by a food recovery organization. The burden on the City to monitor and enforce the proposed rules related to edible food generators and food recovery creates an adversarial and punitive tone to a program that intends positive and beneficial outcomes for those going hungry in our community. The City recommends allowing greater local control in developing programs to address food recovery for community benefit.</p>	<p>Regarding the comment about local control, SB 1383’s statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. In order to meet this goal, SB 1383’s regulations include requirements that jurisdictions shall implement edible food recovery programs that include critical requirements such as educating commercial edible food generators about their requirements under SB 1383, monitoring commercial edible food generator compliance, and expanding edible food recovery capacity if additional capacity is needed in the jurisdiction. These key requirements are critical to help ensure that millions of pounds of edible food stay out of landfills and to help the state achieve its 20% edible food recovery goal. For these reasons, a change to the regulatory text was not necessary.</p> <p>In addition, if the commercial edible food generator requirements were removed from the regulations, and the jurisdiction requirement to monitor commercial edible food generator compliance was also removed, then the regulations would not include any mandates for food to be recovered. Removing these critical requirements would make food recovery voluntary, which is the current situation in California. We have seen that when food recovery is voluntary millions of pounds of edible food are disposed rather than being put to the highest and best use of helping feed people in need.</p>
6424	Reynolds, City of Blythe	<p>Comment: In the current draft, a tremendous amount of effort is placed on the Enforcement and Recordkeeping sections, which will require the City to divert scarce funds and resources away from initiative to an enforcement-based system. The City recommends reducing the burden of enforcement and record keeping so that the City may prioritize program development.</p>	<p>A change to the regulatory text is not necessary. The reporting and recordkeeping requirements are the minimum amount needed to allow CalRecycle to ensure a jurisdictions compliance with the Chapter. The recordkeeping requirements also assist a jurisdiction in verifying and tracking their own progress and if they are complying with the law.</p> <p>The Chapter allows a jurisdiction the flexibility to fulfill its oversight role by adopting their own enforceable ordinances that are consistent with the requirements of the Chapter.</p>
4103	Rich, D, Mtn View	<p>We continue to request, as we did in our prior comments on these regulations (November 2017 and Mary 2018) that jurisdictions that have already demonstrated their commitment to achieving high diversion be allowed to maintain local control</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>of their solid waste and diversion programs, determining how best to divert organic waste in their own communities.</p>	<p>provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4104	Rich, D, Mtn View	<p>We propose that the regulations offer such jurisdiction an Alternative Collection and Compliance system. In our enclosed comments we offer detailed possible revisions to Articles 3 and 13 of the regulations to add this Alternative. Jurisdictions utilizing the Alternative would be allowed to opt out of the prescriptive inspection, enforcement, and reporting measures of Articles 14, 15, and 16, and Sections 18984.5 and 18984.6 of Article 3. Intrad, these jurisdictions would demonstrate that their programs, designed in the maner that the jurisdiction choosees meet the overall diversion goals of SB 1383. We do not believe allowing such an Alternative would be in conflict wth the enabling legislation directive to not impose a minimum diversion requirement on each jurisdiction. It would not be a mandate, but an implementation option a jurisdiction could select. Additionally, this Alternative would relieve the State of burdensome oversight of high-performing jurisdictions. A similar "two-track" compliance system was used by the State Water Resources Control Board in the adoption of its Trash Amendment for the Ocean Plan and the Water Quality Control Plan for Inland Surface Waters. The two-track compliance approach offered by teh State's Trash Amendments gave jurisdictions the choice of installilng trash full-capture devices on inlets throughout the jurisdiction or implementing a trash load reduction program that achieves the equivalent of the State's requirement.</p>	<p>Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.</p>
4105	Rich, D, Mtn View	<p>The definition of "organics/organic waste" is not consistent with that used in AB 1826 and AB 901. We are concerned about the inclusion of textiles and carpet in the definition used for these regulations. A significant portion of carpet is PET, which is not organic, and most clothing presents the same issue. There is already a regulatory program for carpet .For organic textiles, a jursidiction may allow them in the recyclin cart, but is not required to. In any case, residents. as organic waste generators, are not allowed to place them in the trash cart and would be subject to enforcement if they did so. Expecting the general public to differentiate between</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated</p>

Comment Number	Received From	Question/Comment	Response(s)
		organic and inorganic carpet and textiles when deciding on disposal options is impractical.	by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
4106	Rich, D, Mtn View	<p>Article 2. In Section 18983.2(a)(3), approval of a proposed process or technology depends entirely on a pass/fail conclusion that the process or technology results in GHG emissions reductions equal to or greater than 0.30 MTCO₂e per ton, which is described as teh GHG reductio achieved by composting mixed organic waste. The ISOR goes int great detail in describing a basis for teh 0.30 MTCO₂e benchmark. Assuming for the sake of argument that the ISOR calculations are correct in setting this benchmark for mixed organic waste, the methodology may block the use o valuable technologies that targeted the most problematic items - those that do not compost well. For example, a technology that targeted diversion of source-separated organic carpet or lumber, items which release little carbon to the atmosphere but which we still want to divert from disposal, could easily fail to pass teh 0.30 MTCO₂e hurdle. The rigid 0.30 MTCO₂e standard could prove to disqualify otherwise valuable diversion methods and hamper the achievement of the diversion goals stated in SB 1383. We ask that this section be revised to provide the CalRecycle Director more flexibility for approval of proposed processes and technologies.</p>	Comment noted. The standard included in this section was developed in consultation with CARB and CalRecycle finds the standard adequate.
4107	Rich, D, Mtn View	<p>Article 3. We propose a new section be added to allow an alternative collection and compliance system, as outlined in our accompanying letter. Suggested language for the new Section is provided below: Section 18984.13 Alternative Collection and Compliance System. (a) A jurisdiction may implement an alternative collection system that consists of any one of any combination of those allowed under Section 18984.1, 18984.2, ad 18984.3. The alternative sstem may, but is not required to, incorporate the provisions required by Section 18984.5 and 18984.6, and will furthermore be considered to be in full compliance with the requirements of Articles 14,15 and 16 if all these conditions are met: (1) a jurisdiction that chooses to implement an alterative collection system must: i. Have a Zero Waste Plan or Zero Waste Police that was adopted prior to January 1, 2019; ii. Have an organics diversion program for both single family residential and commercial customers that was established prior to January 1, 2019; iii. Demonstra a continued reduction in the amount of organics being disposed in the landfill through one of the following measures: 1. A forty percent reduction in the overall population pounds per day disposal rate in 2025 as compared to 2017, demonstrated by the annual AB 939 report submitted on August 1, 2026. 2. No more than 25 percent of the total organic waste generated in the jurisdiction is disposed in landfill. 1 (2) A jurisdiction that has not demonstrated a continued reduction in teh amount of organics being disposed in landfill for the calendar year 2025 using one of the methods allowed in (iii) above will no longer be approved to implement the alternative system and must be in full compliance with all provisions of Sections 18984.5 and 18984.6 and Articles 14, 15, and 16 no later than January 1, 2027. 1 Cal Recycle would need to</p>	Comment noted. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some if the prescriptive requirements that apply to collection systems established under Article 3.

Comment Number	Received From	Question/Comment	Response(s)
		<p>document an accepted process by which the amount of disposed organic wastes could be determined. Our suggestions: A community may determine their total organic waste generation rate based on either: 1. The statewide per capita organic waste generation rate as determined by CalRecycle, or 2. A statistically valid waste composition study that would include the determination of all organic wastes currently being diverted, and all organic waste still being landfilled, and not to identify organics disposed as a percentage of the total waste being landfilled. NEW PARAGRAPH The waste generation study (or the statewide per capita generation rate) would provide the base per capita organic waste generation rate against which compliance would be measured. If a full waste generation study was chosen it would identify all organic wastes generated, including organic wastes prevented by actions of the jurisdiction, all organic wastes diverted within the jurisdiction, and all organic wastes still being landfilled. This would include sampling to determine the amount of organic waste generated in the residential sector and separately in the commercial sector (including compactors but not C&D materials). These amounts would be combined to calculate a per capita organic waste generation rate, which would be used to calculate the overall per capita waste generation rate for future years. To demonstrate compliance, only that portion of the waste stream being landfilled would be sampled. The samples would be taken after the organic materials had been processed. Sampling would include organic residue from all processing operations, and unprocessed material collected and hauled directly to landfill. The amount of organic materials in the samples would be used to calculate the total organic waste still being landfilled, and the organic waste landfilled on a per capita basis. NEW PARAGRAPH The base year organic waste generation study would be performed between 2012 (as 10 years before measurement commences) and 2022. The organic waste landfilled sampling would be conducted every year until organic waste landfilled is not more than 25 percent of the total organic wastes generated in the jurisdiction, and once every five years after that to ensure that the jurisdiction maintained the required diversion rate. Communities could update their full base year organic waste generation study as often as they deemed it necessary.</p>	
4108	Rich, D, Mtn View	<p>4108 Article 3 section 18984.1(a)(4) The shade of blue for cart lids in a program using dual stream recycling collection (separating paper from containers) should be specified. We suggest light blue for bottles and cans and dark blue for paper.</p>	<p>CalRecycle revised Section 18984.7(a) in response to this comment to clarify that jurisdictions have to provide containers for the collection service that the jurisdiction implements for organic waste generators, not the indoor bins of businesses. Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. Additionally, if the color is an issue in this circumstance, the business can use labels instead. CalRecycle will clarify in the FSOR that Section 18984.9(b), which allows a commercial business to provide containers that comply with either the color or the labeling requirements, applies to Section 18986.1 and Section 18986.2.</p>
4109	Rich, D, Mtn View	<p>Article 12 Section 18993.1 establishes procurement targets for the purchase of organic waste products. The concept of requiring cities, counties and special</p>	<p>SB 1383 provides a broad grant of regulatory authority to the Department that allows for inclusion of the procurement requirements. CalRecycle has determined these requirements are</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>districts to purchase compost and /or "renewable transportation fuel" derived from "California, landfill - diverted recycled organic waste" is a concept not found in statute.</p>	<p>necessary to achieve the organic waste diversion targets in statute by ensuring end uses for processed organic waste. In Public Resources Code Section 42652.5, "The department, 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." That section also provides that the Department may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, the Department also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where the Department successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority' The [administrative agency] is authorized to "fill up the details" of the statutory scheme."</p> <p>Consistent with CalRecycle's broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission's 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that "state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas." As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board's Short Lived Climate Pollutant Strategy states, "CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products."</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle's 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream. Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Regarding funding, SB 1383 (Public Resources Code Section 42652.5(b)) provides that, "A local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations adopted pursuant to this section."</p>
4110	Rich, D, Mtn View	<p>Article 12: The assumption and specifics of Article 12 are problematic in several ways. The amount a jurisdiction is required to purchase is based on an assumption that local government accounts for 13% of gross domestic product (GDP) and that local government can and should use 13% of all diverted organics. The calculation are also optimistically based, starting Day One, on the tonnage diverted in 2025 if the 75% diversion level is achieved.</p>	<p>The purpose of the per capita procurement target is to create a transparent method to establish the requirement for jurisdictions to create markets for recovered organic waste products. CalRecycle disagrees with the suggestion to phase-in procurement. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p> <p>However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p>
4111	Rich, D, Mtn View	<p>Article 12 (Comment 4111) State agencies, schools and other entities have no corresponding purchase requirements and penalties. This inconsistency appears arbitrary. Why are state agencies, etc. not required to take similar procurement actions as jurisdictions?</p>	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to "develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state." These are examples of how CalRecycle works with sister agencies, but</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
4112	Rich, D, Mtn View	<p>Article 12 (comment 4112) The per capita quantities appear to overstate what is practical and achievable. When we calculate the Mountain View purchase quantities, the City must purchase more than 3,200 tons per year of compost. The City currently purchases and distributes free to our residents, through our partnership a the SMaRT Station in Sunnyvale, unlimited amounts of compost. Annual demand for this material is just 360 tons. Even if we provided the purchased compost to every contractor working on City projects and our own parks department (which already mulches used trimming generated in the City), it seems unrealistic that we could ever fully use the amount of material required to be purchased.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products, including mulch and renewable electricity from in-vessel digestion and biomass conversion, to provide jurisdictions with even more flexibility to choose product that fit local needs.</p> <p>CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction’s need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. If, as mentioned in the comment, the city has limited need for compost, mulch, or fuel, the city may procure electricity or heating applications derived from renewable gas. If the city is capable of reducing or eliminating its use of fossil gas entirely, it could correspondingly reduce or eliminate its procurement obligation under the regulation. This provision was added to ensure jurisdictions are not required to procure more material than they can actually use, and to ensure that the requirements do not conflict with other environmental goals to reduce the carbon intensity of products and activities cities procure material for use.</p>
4113	Rich, D, Mtn View	<p>Article 12 (comment 4113) Alternatively, the City could attempt to comply by purchasing "renewable transportation fuel, "(very narrowly defined as "fuel derived from renewable gas from organic waste that has been diverted from a landfill an dprocessed at an in-vessel digestion facility...:) To do so would require (assuming a fleet average of 20mpg) buying enough fuel to drive over 2.1 million miles annually. The fact that consumption of such huge amounts is required for compliance calls into question the assumptions and methodology used to calculate the per capita requirements.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products, including mulch and renewable electricity from in-vessel digestion and biomass conversion, to provide jurisdictions with even more flexibility to choose product that fit local needs.</p> <p>CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction’s need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. If, as mentioned in the comment, the city</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>has limited need for compost, mulch, or fuel, the city may procure electricity or heating applications derived from renewable gas. If the city is capable of reducing or eliminating its use of fossil gas entirely, it could correspondingly reduce or eliminate its procurement obligation under the regulation. This provision was added to ensure jurisdictions are not required to procure more material than they can actually use, and to ensure that the requirements do not conflict with other environmental goals to reduce the carbon intensity of products and activities cities procure material for use.</p>
4114	Rich, D, Mtn View	<p>Article 12 (comment 4114) The requirement to use renewable transportation fuel is likely to result in a large investment of vehicles and equipment that can utilize these fuels. As we do everything reasonable to electrify our fleets in order to meet the State's AB 32 goals, any investments required in vehicles and equipment that run on fuels derived from organics are essentially a step backward in our mutual efforts to combat climate change.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle disagrees that RNG procurement is contrary to state goals for electrification. The use of renewable natural gas as outlined in the 2017 Climate Change Scoping Plan (2017 Scoping Plan) (CARB 2017), which is the official plan for how the state will meet the greenhouse gas emissions requirements pursuant to Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006) and SB 32 (Pavley, Chapter 249, Statutes of 2016). The 2017 Scoping Plan lists the organics diversion regulation as a measure that will be utilized to ensure this emissions reduction goal is met, and</p>

Comment Number	Received From	Question/Comment	Response(s)
			states that “procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68). Further, the regulatory procurement requirements were developed in consultation with the California Air Resources Board and the California Energy Commission. Per the provisions of Section 39730.8 of the Health and Safety Code, the regulatory procurement requirements were designed to be in alignment with the recommendations found in the 2017 Integrated Energy Policy Report (IEPR), which was developed by the California Energy Commission in consultation with the Public Utilities Commission and the California Air Resources Board.
4115	Rich, D, Mtn View	Article 12 (comment 4115) Limiting solid end products to "compost" fails to recognize the many other uses made of diverted organics, especially mulch and similar products.	CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
4116	Rich, D, Mtn View	Article 12 (comment 4116) Limiting biofuel to transportation uses fails to give credit to other legitimate uses of renewable methane gas made from landfill- diverted organics, such as pipeline injection and generation of electricity.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest</p>

Comment Number	Received From	Question/Comment	Response(s)
			value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.
4117	Rich, D, Mtn View	Article 12 (comment 4117) Limiting the feedstock for the purchased materials to California sources, may conflict with the Commerce Clause of the United States Constitution. Federal courts have consistently frowned on states acting to restrict sources and destinations of trade based on state boundaries.	<p>Although the proposed regulations limit procurement of recovered organic waste products to certain enumerated products made from California, landfill-diverted recycled organic waste, relevant U.S. Supreme Court cases regarding the dormant Commerce Clause allow for regulation that discriminates against interstate trade if it serves a legitimate local purpose that cannot be served as well by available nondiscriminatory means. <i>Maine v. Taylor</i>, 477 U.S. 131 (1986); <i>Hughes v. Oklahoma</i>, 441 U.S. 322, 99 S. Ct. 1727 (1979).</p> <p>Here, the legitimate local purpose is to achieve the organic waste diversion goals enumerated by the Legislature in SB 1383. An essential component of achieving such goals is to ensure markets for organic material diverted from landfills within California to prevent that material from being disposed due to lack of end uses. End-use markets must be limited to products actually generated from in-state, diverted organic waste to be consistent with the statutory goals of SB 1383. An alternative, non-discriminatory requirement that allows procurement of out-of-state compost, RNG transportation fuel or other such products would have no effect on preventing the disposal of organic waste in California and would therefore have no nexus to achieving the goals laid out in SB 1383.</p>
4118	Rich, D, Mtn View	Comment 4118. We ask that CalRecycle replace the Article 12 mandate with a simple requirement that all government entities in California, including state agencies, schools, etc. specify recycled material when purchasing compost, mulch and similar products.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Regarding revising the procurement approach to rely solely on jurisdictions' voluntary purchases of recycled content products, CalRecycle disagrees. This approach would be insufficient to drive demand for recovered organic waste products on the scale necessary to help meet the ambitious targets required by SB 1383.
4119	Rich, D, Mtn View	If a procurement requirement is retained, we ask that it: Allow biogas uses other than transportation fuel to qualify; Allow mulch and similar waste-derived materials to qualify; Use calculation factors that result in required amounts bearing some resemblance to what a jurisdiction is capable of consuming; Use calculation factors that adjust annually in accordance with how much organics is actually being diverted during that year.	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>Regarding calculations for "what a jurisdiction is capable of consuming", it is important to note that the procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility to choose product that fit local needs. Moreover, the comment lacks specific language for quantifying such an approach for each jurisdiction. Even if the commenter recommended a quantifiable way to determine "what a jurisdiction is capable of consuming", California has over 400 diverse jurisdictions and it would be overly burdensome to account for each jurisdiction's custom needs and to develop a procurement target and enforcement policy for each one.</p> <p>Regarding the commenter's proposal for an alternative calculation factor based on organic waste diversion to determine the per capita procurement target, CalRecycle disagrees with this approach. Legislative language in SB 1383 does not allow CalRecycle to impose the statewide 50% and 75% organic waste reduction targets on individual jurisdictions. Therefore, the per capita procurement target also cannot be individually imposed on each jurisdiction, it must be on a statewide basis. The purpose is to create a transparent method to establish the requirement for jurisdictions to create markets for recovered organic waste products. The current approach already accounts for statewide organic waste diversion and for jurisdiction-specific need by providing flexibility to procure a variety of products that fit local needs.</p>
4120	Rich, D, Mtn View	Comment 4120 We propose the following revisions to Article 13 to specify reporting requirements for a jurisdiction choosing to implement an Alternative Collection and Compliance System, as would be allowed by the suggested change to Article 3 above: Amend Section 18994.2 Jurisdiction Annual Reporting for Jurisdictions Implementing Three-Container, Two-Container, or Unsegregated Collection Systems. (a) through (k) no changes.	A change to the regulatory text is not necessary. It is not necessary to change the title of Section 18994.2. Section 18994.2 outlines the reporting requirements for jurisdiction for Articles leading up to Article 17. Article 17 has specific reporting and recordkeeping requirements for a Performance – Based Source Separated Organic Waste Collection Service listed in Section 18998.2 and Section 18998.4. These reporting requirements include some aspects of Article 1-16 and new requirements specific to Article 17.

Comment Number	Received From	Question/Comment	Response(s)
4121	Rich, D, Mtn View	<p>Add new Section 18994.3. Annual Reporting for Jurisdictions Implementing an Alternative Collection and Compliance System. (a) On August 1, 2022 a jurisdiction choosing to implement an alternative collection system as provided by Section 18984.13 shall provide a written description of all the elements that are included in the system, including: (1) the type of organic waste collection service (s) provided by the jurisdiction to its generators; (2) The total number of generators that receive each type of organic waste collection service provided by the jurisdiction; (3) Any waste processing being conducted, including the facility being used, how such waste processing is used in conjunction with collection systems, and the number of generators that have waste processed at the facility; (4) A description of the outreach and education activities provided by the jurisdiction to organics generators; (5) Copies of any ordinances adopted by the jurisdiction related to the alternative system;(6) The type of inspection and enforcement system in use; (7) Any further system elements the jurisdiction plans to implement prior to January 1, 2025; (8) Which method of compliance allowed in Section 18984.3(a)(1)(iii) they anticipate using to demonstrate high diversion by January December 31, 2025. (b) Commencing on August 1, 2022 and annually thereafter, a jurisdiction shall report the information required by Section 18994.2(g) through (i). The report submitted in 2022 shall cover the period of January 1, 2022 - June 30, 2022. Each subsequent report shall cover the entire previous calendar year. The annual report for 2025 shall include all the information necessary to demonstrate compliance with the alternative method chosen under Section 18984.3 (a)(1)(iii).</p>	<p>Comment noted. CalRecycle developed new regulatory provisions for "Performance – Based Source Separated Organic Waste Collection Service" in response to stakeholder comments. Please see Article 17.</p>
6028	Roberts, S., Citizen of Oakland	<p>Support small scale community based composting</p>	<p>Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.</p>
6029	Roberts, S., Citizen of Oakland	<p>the city of oaklands waste contract is too restrictive and doesn't allow for the transportation of putrescibles or for community composting</p>	<p>Franchise agreements are beyond CalRecycle's authority to regulate.</p>
3030	Roberts, S., Concerned Citizen (from Oakland)	<p>I am writing to urge you to consider the potential of small scale composters. My understanding of the implementation of SB 1383 is that it discourages and not all for small scale community composting. This is extremely problematic and short sighted. Small scale composting combined with your large scale composting can be a winning formula. Small scale community composting has the ability to create a product that is higher quality compost -- something that will create less methane in the production. Small scale would allow for the education pieces to happen for urban dwellers and especially children. It makes no sense to not allow for small composters -- it isn't competition for you. We still need you and will continue to have plenty of material. Again, please reconsider your present policies -- support small scale community composters. We need to all be involved in saving the planet.</p>	<p>Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.</p>

Comment Number	Received From	Question/Comment	Response(s)
6010	Rodriguez, K., Western Riverside Council of Governments	I assumed that once SB 1383 kicks in that AB 1826 rules abide to SB 1383? Does SB 1383 have requirements such as 1826 had such as four cubic yards of solid waste or more?	There is expected to be some overlap with 1826 such that compliance with SB 1383 will result in 1826 compliance as well. There are no thresholds in cubic yards generated reflected in SB 1383 regulations.
6011	Rodriguez, K., Western Riverside Council of Governments	Regarding AB 1826 and SB 1383: What if you already have a food donations program or food is returned to vendors and fall under the 1/2 yard per week do you still need a compost program?	<p>The regulations do not require “a compost program.” Existence of a food donation program does not exempt a jurisdictions from the regulatory requirements such as the requirement to provide organic waste collection services to generators subject to their authority.</p> <p>A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”.</p> <p>CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p> <p>However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p> <p>Finally, the regulations provide delayed implementation for rural jurisdictions. Several commenters recommended that the regulations phase-in the procurement requirements from high population to low population areas. The delayed implementation for rural areas (low population areas) was added in response to this request.</p>
9190	Romanow, K., City of San Jose	Add an 'On-Street Yard Trimmings Collection Service' definition to Section 18982, modify the 'Source Separated Organic Waste' definition in Section 18982, and add references to on-street yard trimmings collection as a compliant method to collect source-separated organic waste in addition to a green container in Sections 18984, 18984.1, 18984.2, and all other sections CalRecycle deems necessary.	
9191	Romanow, K., City of San Jose	Add the following On-Street Yard Trimmings Collection Service definition (derived from our residential yard trimmings contractor agreement) to Section 18982: "On-Street Yard Trimmings Collection Service" means the collection of yard trimmings from an organic generator who does not utilize a yard trimmings cart for the set-out of yard trimmings. Yard trimmings are set out on a paved surface of the public roadway, closed accesible roadway or such other location for collection.	CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; it would be costly to provide

Comment Number	Received From	Question/Comment	Response(s)
			<p>extra containers for this material when it can be allowed to accumulate on streets where it can be efficiently collected.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>
9192	Romanow, K., City of San Jose	Modify the "Source Separated Organic Waste" definition in Section 18982: "Source separated organic waste" means organic waste that is placed in a container or for on-street yard trimmings collection that is specifically intended for the separate collection of organic waste by the generator.	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>
9193	Romanow, K., City of San Jose	Change language in all applicable references especially the following for the three-stream and two-stream collection services (Sections 18984.1 and 18984.2):	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>
9194	Romanow, K., City of San Jose	Section 18984.1. Three-container organic waste collection services. (a) a jurisdiction may comply with the requirements of this article by implementing a three container organic waste collection service and providing a green container or on-street yard	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 the receiving facility will accept the green waste</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>trimmings collection, a blue container, and a gray container to each generator in the following manner: (1) The green container or on street yard trimmings collection shall be provided for the collection of organic waste. The green container or on street yard trimmings collection shall be intended for the collection of organic waste only and not non-organic waste. The contents of the green container shall be transported to a facility that recovers source separated organic waste. (2) The blue container shall be provided for the collection of non-organic recyclables only but may include the following types of organic wastes: paper products, printing and writing paper, wood and dry lumber and textiles. The contents of the blue container shall be transported to a facility that recovers the materials for designated for collection in the blue container. (3) The gray container shall be for the collection of non-organic waste only. (4) A jurisdiction may comply with this section by providing a container or containers that are split or divided into segregated sections, instead of an entire container 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. (5) A jurisdiction may comply with this section by providing on-street yard trimmings collection service where material is transported to a facility that recovers source separated organic waste. (6) The following shall not be collected in the green container or on street yarm trimmings collectio service: (A) Carpets, non-compostable paper, and hazardous wood waste.</p>	<p>and still be in compliance with operational and product quality standards. This is necessary because some jurisdictions use this method year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>
9195	Romanow, K., City of San Jose	<p>Section 18984.2. Two-container Organic Waste Collection Services</p> <p>(a) A jurisdiction may comply with the requirements of this article by implementing a two-container organic waste collection service providing a green container or on-street yard trimmings collection, and a blue container to each generator in the following manner:</p> <p>(1) The green container or on-street yard trimmings collection shall be for the collection of organic waste only. The contents of the green container or on-street yard trimmings collection shall be transported to a facility that specifically recovers source separated organic waste.</p> <p>(2) The blue container shall be for the collection of all non-organic waste. However, the blue container may be used for the collection of the following types of organic wastes: paper products, printing and writing paper, wood and dry lumber, and textiles.</p> <p>(3) If either container is intended for the collection of both organic waste and non-organic waste, the contents of that container shall be transported to a high diversion organic waste processing as specified in Section 18984.3 of this article.</p> <p>(4) 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.</p> <p>(5) The following shall not be collected in the green container:</p> <p>(A), Carpets, non-compostable paper, and hazardous wood waste</p>	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>

Comment Number	Received From	Question/Comment	Response(s)
		(b) Notwithstanding (a) 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.	
9196	Romanow, K., City of San Jose	It is unclear whether a jurisdiction can comply with a collection system that is any combination of those prescribed under Section 18984.1, 18984.2, and 18984.3. If a jurisdiction can comply through a flexible collection system, then we have no further comments.	CalRecycle revised Section 18984 in response to this comment to further clarify that a jurisdiction can employ any combination of acceptable collection services, even though the regulations already allow a jurisdiction to comply with a flexible collection system.
9197	Romanow, K., City of San Jose	However, if compliance is strictly through one of the systems prescribed in Sections 18984.1, 18984.2, and 18984.3, we request that CalRecycle include in the regulation a collection system option that provides flexibility for jurisdictions like the City of San Jose that have existing residential and commercial organics diversion programs and have demonstrated a commitment to achieving high diversion. We propose to add a new section to Article 3 allowing a jurisdiction to choose an "Alternative Collection System" provided the jurisdiction meets all of the following requirements: (1) Has adopted a Zero Waste Plan or Zero Waste Policy by December 31st, 2019; (2) Has implemented an organics diversion program for residents and business by December 31, 2019; and (3) Can demonstrate a minimum of 90% participation of organics waste generators in the organics diversion program.	Thank you for the comment. CalRecycle added Article 17 to allow jurisdictions to implement a performance-based source separated organic waste collection system as an alternative to some of the prescriptive requirements that apply to collection systems established under Article 3.
9198	Romanow, K., City of San Jose	We also propose to add the following definition for "participation" in Section 18982. Participation is calculated as the number of generators that have organic waste service less back-haulers or self-haulers.	CalRecycle is not using the term participation in the regulations and thus this definition is not necessary.
9199	Romanow, K., City of San Jose	And we propose to modify Section 18995.1 (a) (B) to read: (B) If a jurisdiction is using the compliance method described in Section 18984.3 or the Alternative Collection System in Section X the jurisdiction shall conduct a compliance review of all garbage accounts for commercial business that are subject to its authority, and generate two cubic yards or more per week of solid waste and produce organic waste; and, also determine their compliance with: 1. Organic waste generator requirements set forth in Section 18984.9 and document if the business is transporting the contents to a high diversion organic waste processing facility, or 2. Self hauling pursuant to Section 18988.3, including whether a business is complying through back-hauling organic waste.	CalRecycle has revised section 18995.1 in response to this comment.
9200	Romanow, K., City of San Jose	The methodology for calculating procurement targets in Section 18993.1 (b) is fundamentally flawed because it does not take into account a jurisdiction's actual need for the recovered organic waste product. (...) We ask CalRecycle to consider a methodology or approach that produces more realistic procurement targets.	The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility to choose product that fit local needs. Regarding the proposal to base the procurement target methodology on "actual need" CalRecycle disagrees. The comments submitted on this lack specific language for quantifying such an

Comment Number	Received From	Question/Comment	Response(s)
			<p>approach. Even if the commenter recommended a quantifiable way to determine “actual need”, California has over 400 diverse jurisdictions and it would be overly burdensome to account for each jurisdiction’s “actual need” and to develop a procurement target and enforcement policy for each one.</p> <p>However, CalRecycle also recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction’s need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. It can do this by showing that the amount of fuel, electricity, and gas for heating applications procured in the previous year is lower than the procurement target.</p>
9201	Romanow, K., City of San Jose	<p>Composting is a popular method for treating biosolids. Therefore, the City assumes biosolids compost is an eligible product under Section 18993.1(f) but requests explicit confirmation from CalRecycle. Jurisdictions with large populations, such as the City of San Jose, will have difficulty meeting the procurement target if only the purchase of compost and renewable transportation fuel satisfy the procurement target established in Section 18993.1 (b). Basing compliance on the procurement of compost and renewable transportation fuel only, unfairly penalizes jurisdictions in Santa Clara County that have been early adopters of organic waste diversion programs and currently process their organics into renewable electricity at the Zero Waste Energy Development Company , AD Facility. Furthermore, there is no renewable transportation fueling infrastructure in or around Santa Clara County, which make procurement impossible. Therefore, we propose CalRecycle add other beneficial, non-transportation uses for methane resulting from the process of organic waste- such as pipeline injection, on site power generation, and exportation of electricity-to the list of recovered organic waste products. Mulch is another product that should be added as it is a beneficial product resulting from the processing of organic waste.</p>	<p>Regarding biosolids compost, the current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B). Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target.</p> <p>Regarding expanding renewable gas end uses, please see the Final Statement of Reasons regarding the eligible end-uses identified in the regulations and how they should be interpreted. The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
9202	Romanow, K., City of San Jose	<p>Per comments 3 and 4, the City is concerned that the procurement targets are not be achievable. While Section 18993.1 (h) attempts to limit unnecessary increases in the amounts of recovered organic waste products a jurisdiction is required to purchase, it is not clear how a jurisdiction shall substantiate that the amount of recovered organic waste products it purchased in 2022 is the same as the amount of</p>	<p>The referenced section has been revised to Section 18993.1(j). The intent of section 18993.1(j) is to provide jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. Given the potential difficulty of determining conversion factors for comparable products to compost (e.g. liquid chemical fertilizers compared to solid compost), jurisdictions have the option to use their</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>recovered organic waste products it purchased in 2021. Jurisdictions that do not meet or exceed their procurement target for 2022 based on the calculation described Section 18993.1(b) will likely claim that they have purchased an "amount equal to its total purchase of transportation fuel and renewable transportation fuel from the previous year." Furthermore, it is unreasonable to expect that jurisdictions will gather all invoices and records required by Section 18993.2 for any year prior to these regulations taking effect.</p>	<p>previous year's procurement of gas, which have readily available organic waste conversion factors, to lower their procurement target. The focus on energy products is intended to simplify the process by which a jurisdiction can lower its procurement target. Although this mechanism relies only on fuel, electricity, and gas procurement, a jurisdiction can still choose to meet its lowered procurement target with any recovered organic waste products, including compost.</p> <p>CalRecycle disagrees with the comment that records for years prior to the regulation taking effect is "unreasonable". The rulemaking process has been ongoing since 2017, and although the regulations will not take effect until 2022, adopting them in 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022. Enforcement for procurement will also begin on January 1, 2022 and jurisdictions should be prepared to maintain records and report the required information showing they are in compliance at that time.</p>
9203	Romanow, K., City of San Jose	<p>ESD expects both residential and commercial solid waste programs to meet the 50% organics diversion by January 1, 2022. However, in the absence of any significant new innovations in Material Recovery Facility (MRF) sorting, it is unlikely that any mixed waste processing program will meet the 75% diversion requirement by January 1, 2025. An alternate diversion requirement for mixed organics processing could be 70% or more, which is aligned with San Jose's anticipated performance and hauler contracts.</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>"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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements."</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>"With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>recovery of organic waste. Required source-separation of organic waste helps ensure that organics are kept clean, separate and recoverable.</p> <p>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 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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additional flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections 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)..."</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>"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 the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>However, the recovery rates established in this regulation should be considered an absolute minimum.”</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be “protected” or provided a “safe-harbor.” The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p> <p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p> <p>The provisions of Section 40004 are general legislative findings and declarations applying to the AB 341 (2011) mandatory commercial recycling program and not specific, affirmative legal requirements CalRecycle is required to adhere to in the proposed regulations. SB 1383 contains specific mandates on organic waste diversion that CalRecycle is required to observe in this rulemaking. The findings and declarations in Section 40004 recognize that adequate processing and composting capacity are essential for diversion and disposal reduction.</p> <p>CalRecycle does not dispute this necessity. But CalRecycle is also more specifically subject to the findings and declarations in SB 1383 (2016, PRC Section 42652) that state that the disposal reduction targets in SB 1383 are essential to achieving the statewide recycling goal of 75% in PRC Section 41780.01 and that significant investment is required to meet these goals and that state and local funding mechanisms are needed to support this expansion. The Legislature acknowledges in this section that infrastructure investment and capacity is a central issue to the success of SB 1383. Since the specific controls the general and the more recent statute controls under common rules of statutory construction, CalRecycle does not find a conflict with Section 40004.</p>
9204	Romanow, K., City of San Jose	We understand the goals of gaining a better understanding of how much organic waste is in various process and residual streams. Section 17409.5 contains several	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the

Comment Number	Received From	Question/Comment	Response(s)
		<p>requirements intended to quantify, on at least a daily basis, the amounts of organic waste contained in various process and residual streams. The quantification relies on detailed characterization sorts of one-cubic yard samples. Section 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, 17409.5.9, and 17409.5.11 require characterization daily (or more often) of samples one-cubic yard in size. Both the frequency and the sample size are impractical. Logistically, a typical hand sort of one 50-pound sample of recovered organic material or post-processing residuals from mixed waste processing of San Jose commercial solid waste, takes 30-45 minutes with three or four sorting staff. It stands to reason that a cubic yard sample would either require more sorters or more time to complete. The requirement to conduct these audits daily on different material streams (organic material and residue streams) would add significantly to facility operating costs, which is then passed on to taxpayers in form of rate increases. We believe that the intent of the section can be met without the very prescriptive and onerous measurement protocols, and we ask that CalRecycle revise this section with guidance from an expert who specializes in statistical science as it relates to learning useful information from sampling and analysis. We would expect this would lead to much smaller sample sizes and less frequent sampling (e.g., only when needed to adjust for seasonality and trends) not the current, arbitrary, daily sampling requirement.</p>	<p>measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard.</p> <p>The sampling frequency 10 consecutive days was based on that 2 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 the "2014 Disposal-Facility- Based Characterization of Solid Waste in California", 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% 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%, 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 2 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 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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" collections streams are reflected in the sampling. Based on the expert 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>

Comment Number	Received From	Question/Comment	Response(s)
9205	Romanow, K., City of San Jose	For articles 14 and 15, require a summary report of records (e.g. stats) to be provided upon request by CalRecycle rather than all records. There may be privacy concerns with providing detailed records. Jurisdictions may need to seek legal protections if required to provide detailed information regarding haulers or generators.	The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure.
9206	Romanow, K., City of San Jose	The RWF is in the process of transitioning from a four-year-long lagoons and drying beds biosolids cycle to a daily mechanical dewatering facility and off-site transport biosolids handling process. This transition is "a long term infrastructure (...) change which requires a corresponding longer length of time to achieve compliance." The City is currently preparing to award a contract to the highest ranked design-build team who will complete the design and construct the new dewatering facility; however, the new facility is not expected to be substantially complete until late 2022, which is past the effective date of the SB 1383 regulations. Furthermore, after the new facility is in operation, the RWF will not be able to full empty and haul the biosolids from all the lagoons and drying beds until 2027. The City does not currently have a more environmentally-friendly and cost-efficient option than to haul the biosolids from the lagoons and drying beds to Newby Island Sanitary Landfill until a market assessment is completed and can confirm otherwise. The City intends to transport the biosolids from the mechanical dewatering facility to a facility that complies with Section 18987.2.	A change in the regulatory text is not necessary. The regulations are effective in 2022, allowing for ample time for planning for lack of capacity or infrastructure deficiencies. Currently, it is 2020 and jurisdictions have until 2022 to address any capacity deficiencies and if necessary, they can be placed on a Correction Action Plan that allows for an extended timeframe to come into compliance. The regulations allow up to three years to come in to compliance on a CAP (in total this is effectively equivalent to the request five years).
9207	Romanow, K., City of San Jose	Unlike the other materials included in the definition of paper products, building insulation and panels are most frequently not made of paper. In addition, some insulation has a single paper backing on fiberglass layers which is not practically seperable from the fiberglass. Since the regulations of "organic waste" includes paper products, the inclusion of building insulation will lead to confusion and possibly contamination. This problem is magnified when procurement is considered. The regulations require jurisdictions to procure and trach recycled content paper products and meet minimum purchasing percentages. Factors influencing the selection of insulation type and performance are highly technical and subjective. There are several high performing insulations which are not composed of recycled content and building designers should not need to balance a building's energy performance with the recycled content of the building insulation and panels.	CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.
9208	Romanow, K., City of San Jose	Per comment #1 above, add an "On-street yard trimmings collection service" definition to section 18982, modify the "source separated waste" definition in Section 18982.	CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.

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			<p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding “or door” after the term “container” in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street.</p>
9209	Romanow, K., City of San Jose	Per comment #2 above, add definition for "participation" to section 18982.	CalRecycle is not using the term participation in the regulations and thus this definition is not necessary.
3321	Runsten, D., Community Alliance with Family Farmers	<p>Amend the excluded activity in §17855(a)(1) to say:</p> <p>(1) An activity is excluded if it takes place on an agricultural site and produces compost for use on that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the composting activity. Feedstocks may include green material, agricultural material, agricultural by-product material, herbivore manure, food material, and vegetative food material sourced from off-site in order to supplement and enrich the compost. No more than an incidental amount of up to 1,000 cubic yards of compost product may be given away or sold annually. The 1,000 cubic yards, which was put in place by the commercial waste haulers and commercial composting industry, is not a problem for crop farms. We have found no crop farms in California that want to make compost in order to sell it. They want to make it for their own use and it is the restrictions on bringing materials onto their farms and the limits on the size of the composting operation on their farms that is hindering this activity.</p> <p>However, the dairy industry may want to make and sell compost, and so we ask that CalRecycle consult with CDFA and the Central Valley Water Board on proposals to allow this in greater quantities than 1,000 cubic yards. We believe that the State Water Board is proposing to allow greater quantities to be sold. We object to efforts by the commercial composting industry to monopolize the sale of compost.</p>	Comment noted. Section 17855(a)(1)) is an existing regulation and describes an excluded activity. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking.
3322	Runsten, D., Community Alliance with Family Farmers	<p>Amend the excluded activity in §17855(a)(1) to say:</p> <p>(1) An activity is excluded if it takes place on an agricultural site and produces compost for use on that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the composting activity. Feedstocks may include green material, agricultural material, agricultural by-product material, herbivore manure, food material, and vegetative food material sourced from off-site in order to supplement and enrich the compost. No more than an incidental amount of up to 1,000 cubic yards of compost product may be given away or sold annually. The 1,000 cubic yards, which was put in place by the commercial waste haulers and commercial composting industry, is not a problem for crop farms. We have found no crop farms in California that want to make compost in order to sell it. They want to make it for their own use and it is the restrictions on bringing materials onto their</p>	Comment noted. Section 17855(a)(1)) is an existing regulation and describes an excluded activity. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking.

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		<p>farms and the limits on the size of the composting operation on their farms that is hindering this activity.</p> <p>However, the dairy industry may want to make and sell compost, and so we ask that CalRecycle consult with CDFA and the Central Valley Water Board on proposals to allow this in greater quantities than 1,000 cubic yards. We believe that the State Water Board is proposing to allow greater quantities to be sold. We object to efforts by the commercial composting industry to monopolize the sale of compost.</p>	
1197	Ryan, Paul, PF Ryan and Associates	<p>Section 18984.12 Waivers and Exemptions Granted by the Department</p> <p>(c) (c) Rural Exemptions:</p> <p>{l} The Department shall grant an exemption from complying with the organic waste collection requirements specified in this article for Rural Jurisdictions that meet the definition of a "Rural Jurisdiction" in Section 42649.8 of the Public Resources Code, if the governing body of the jurisdiction adopts a resolution that includes a finding as to the purpose of and need for the exemption.</p> <p>(2) An exemption implemented pursuant to this subdivision shall be valid until January 1, 2025, or until five years after the Department makes a determination pursuant to Section 42649.82 (a){2}(D) that the statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, whichever is later.</p> <p>New (d) proposed language</p> <p>(d) Extraordinary or extenuating circumstances Exemptions:</p> <p>(1) The Department shall grant an exemption from complying with the organic waste collection requirements for jurisdictions with populations greater than 5,000 people and are low-income disadvantaged communities that have no organic processing facilities within 100 miles, low volumes of collected organic waste, not in areas of the state that are not unnecessarily affected by poor air quality and with de minimis organic end-product procurement.</p> <p>(2) An exemption implemented pursuant to this subdivision shall be valid until January 1, 2025, or until five years after the Department makes a determination that the statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, whichever is later.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to</p>

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			<p>allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
1198	Ryan, Paul, PF Ryan and Associates	An exemption is needed for jurisdictions in remote locations in the southern portion of the state's desert areas that have minimal contributions to make in reducing methane and other GHG emissions.	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than</p>

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			<p>5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p>

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			Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.
1199	Ryan, Paul, PF Ryan and Associates	In keeping with the language of SB 1383 (Lara 2016), efforts to reduce emissions of short-lived climate pollutants should focus on areas of the state that are significantly affected by poor air quality.	The portions of SB 1383 in Public Resources Code Section 42652 et seq. that provide the basis of this rulemaking evince no such requirement. With regard to the intent language of SB 1383 relative to air quality. The cost update included in the Appendix to the ISOR quantifies the economic value of health benefits from reductions in landfill pollutants. These benefits were calculated in consultation with the California Air Resources Board. Emissions generated by organic waste disposal trigger the most acute impacts on communities that live within the footprint of landfills. Currently one-third of landfill disposal occurs within a kilometer of some of our state's most disadvantaged communities. Additionally the regulations include required for applicants seeking to construct new or expanded solid waste facilities to consult with disadvantaged communities.
3066	Sahota, J., Solano County	EDH believes that the proposed regulatory language in Article i., Section 18990.1(a) and (b) appear to be internally contradictory, conflicts with existing state and federal requirements, and may be interpreted to eliminate the human and environmental protections currently provided by Chapter 25 of the Solano County Code. An interpretation that would tend to conflict with Solano County Code would inappropriately impinge on the County's police power to ensure activities do not cause or promote public nuisances or human health risks....Chapter 25 of the Solano County Code does not prohibit biosolids land application, but includes certain seasonal and operational requirements to prevent nuisances caused by odor, vector, and runoff contamination, as well as ensuring applications are performed at proper agronomic rates. These local requirements are necessary to ensure minimization of human health and environmental risks. Background on Solano County's Biosolids Land Application regulations....Contradictions and Conflicts with Federal and State Law: Both 40 CFR Part 503 and SWRCB General Order No. 2004-0012-DWQ contain language which specifically allows the enactment of local requirements for land-applied biosolids for beneficial use, as cited below: SWRCB General Order No. 2004-0012-DWQ...40 CFR Part 503:.... It is not clear how the proposed SB 1383 regulations can be compatible with the existing federal and state requirements by unduly constricting the exercise of policy power by local jurisdictions. This contradiction and conflict appear to stem in part from the proposed inclusion of the biosolids in the definition of "organic waste" in section 18982 (a) (46). This is a departure from previous CalRecycle regulations which have not included biosolids in the definition of organic waste. Biosolids are dissimilar to green material, food waste, paper products, and all other organic wastes described in section 18982 as biosolids have known bacteriological and chemical characteristics that require enhanced oversight compared to the other items included in this organic wastes definition. Recommendations: To address contradictions and conflict, Solano County recommends one of more of the following changes to the proposed regulation: 1) In Section 18982 (a)(46), remove "biosolids digestate and sludge: from the definition of organic waste. 2) Amend proposed section 18990.1	<p>A. The requested changes to the regulatory text are not necessary. However, CalRecycle is adding additional language to Section 18990.1(b)(1) to further clarify its meaning in light of comments received regarding it. Article 9, Sections 18990.1 (a) and (b) are not contradictory. 18990.1 (a) clarifies that it does not limit a jurisdiction in adopting more stringent standards than the ones outlined in this chapter. The purpose of the specific limitations set forth in paragraphs 1-5 of 18990.1 (b) are to ensure that jurisdictions do not impose restrictions on the movement and handling of waste and waste-derived recyclables that would interfere with or prevent meeting the organic waste recovery targets established in SB 1383.</p> <p>B. Article 2, Section 18983.1 (b)(6)(b) clarifies that land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards. 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. While this regulation defines land application as 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 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. The additional language will ensure that such restrictions can be reviewed on a case-by-case basis to determine if they are actually necessary and tailored to protect the public health and safety, or if they are actually unnecessary and overbroad restrictions.</p>

Comment Number	Received From	Question/Comment	Response(s)
		by adding the italicized below: (b)(1) Ban or completely prohibit the lawful processing and recovery...(c)(6) Prohibit a jurisdiction from enacting regulations including operational controls and restrictinos to prevent public nuisance conditions. 3) Add the following text to Section 18983.1(b)(6)(B): Section 18983.1(b)(6)(B): Meet the requirements of any locally enacted ordinance or permit requirements.	
1016	Sanford, Karen, Kern Public Health Services Department	18083(c) By placing this in regulations, the public could also go after an LEA under Public Resource Code. They could make the statement the LEA is not meeting its responsibilities under the Public Resource Code.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1017	Sanford, Karen, Kern Public Health Services Department	18083(c) -This also creates a state minimum standard of once a quarter. For those facilities which are already inspected monthly, operators could accuse the LEA of administering this standard more than once a quarter.	CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.
1018	Sanford, Karen, Kern Public Health Services Department	Remove the updated language to Section 21660.2 (c) "The information meeting shall meet the following criteria: (1) The meeting shall be held in a suitable location not more than one (1) mile from the facility that is the subject of the meeting and from any disadvantaged communities affected; (A) The EA shall identify disadvantaged communities in a manner that meets or exceeds the methods of the identification tools developed by (2) The meeting shall be held on a day the (3) EAs shall undertake additional measures to increase public notice and to encourage attendance by any persons interested in the facility Which may include, but not be imited to noticing beyond one (1) mile if the nearest residence or business " - a. For what purpose would there be by increasing the current mandated noticing of 300-feet to one-mile? The LEA often exceeds the 300-feet and goes up to 1,000-feet, but increasing noticing for up to one-mile from the facility would be overly burdensome for the LEA.	CalRecycle has revised Section 21600.2 (c) in response to comments. The "one (1) mile" requirement in Subsection (c)(3) has been deleted and "shall" has been changed to "may," reverting back to the existing regulatory language.
1019	Sanford, Karen, Kern Public Health Services Department	Section 21660.2 According to the EPA Environmental Justice Screen, the LEA would have to notice virtually every residence within Kern County, with exception to the most affluent sections of Bakersfield.	<p>Comment noted. The commenter is confusing noticing 21660.2 (c)(3) with meeting location 21660.2(c)(1) requirements. To clarify, the public meeting noticing requirements in 27 CCR 21660.2(c)(3) is determining the noticing distance from the facility not the affected disadvantaged communities or EPA Environmental Justice. Whereas, the location of the public meeting takes into consideration the affected disadvantaged communities.</p> <p>CalRecycle has revised this section in response to comments. This section was revised to define the term "affected disadvantaged communities." This is necessary to clarify and assist the LEAs</p>

Comment Number	Received From	Question/Comment	Response(s)
			better identify who would be covered under this term so that they are notified and are provided an adequate opportunity to attend and provide comments on the project.
9037	Scheibly, K., Marin Sanitary Service	We feel in general that the reporting and monitoring requirements are overly burdensome and will result in large increases in costs that may not necessarily result in more diversion of organics from landfills or lower greenhouse gas emissions and may actually hinder the progress of successful programs such as those offered by Marin Sanitary Service to the following jurisdictions: San Rafael, Larkspur, Ross, Fairfax, and the unincorporated areas of the County of Marin.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
9038	Scheibly, K., Marin Sanitary Service	(b) A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. This seems very vague. We ask for some clarity on what this means in more detail. 1. Does this mean that a city can designate all responsibilities to the hauler for program implementation, outreach & education, contamination audits, enforcement and penalties?	CalRecycle revised Section 18981.2 to clarify activities that may be delegated and to clarify that levying of penalties cannot be delegated to a private entity. CalRecycle finds that the imposition of administrative civil penalties involves a level of decision-making of substantial enough import regarding the success of this program that it should be made by jurisdictions as public agencies rather than being delegated to a private entity.
9039	Scheibly, K., Marin Sanitary Service	(b) A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. We have concerns as a hauler regarding enforcement, especially for edible food waste recovery programs.	Comment noted, CalRecycle revised Section 18981.2 to clarify activities that may be delegated and to clarify that levying of penalties cannot be delegated to a private entity. CalRecycle finds that the imposition of administrative civil penalties involves a level of decision-making of substantial enough import regarding the success of this program that it should be made by jurisdictions as public agencies rather than being delegated to a private entity.
9040	Scheibly, K., Marin Sanitary Service	(b) A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. Will our contacts need to be rewritten to include this language or would an MOU be sufficient between a hauler and a city?	Pursuant to Section 18981.2, any designation of a public or private entity to carry out a jurisdiction's responsibilities under Chapter 12 would need to be pursuant to a contract or MOU. As such, a designation would be subject to a negotiated agreement and a potential designee cannot be forced into accepting a designation.
9041	Scheibly, K., Marin Sanitary Service	(44) "Notice and Order to Correct (NOTC)" means a notice that a violation has occurred and that failure to correct the violation may result in a penalty. We suggest that this be changed to --" a warning notice has been issued that if not corrected will result in a violation that may result in a penalty.	A change to the regulatory text is not necessary. These terms are used by the Department when enforcing non-compliant entities. A jurisdiction has the discretion to develop into their ordinances "warning notices."

Comment Number	Received From	Question/Comment	Response(s)
			A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.
9042	Scheibly, K., Marin Sanitary Service	(44) "Notice and Order to Correct (NOTC)" means a notice that a violation has occurred and that failure to correct the violation may result in a penalty. MSS has a robust contamination procedure in which customers may be issued warnings with the ability to correct the issue or a violation which results in a fine. In some cases, there is no option to correct and the material must be immediately emptied as landfill.	A change to the regulatory text is not necessary. Section 18995.4 outlines the progressive enforcement by a jurisdiction. Entities are given ample time through the Notice of Violation process to remedy an alleged failure to comply. In reference to container contamination, Section 18984.5 details noticing a generator when container contaminates are observed. If a jurisdiction observes visible prohibited container contaminates in a generator's container, it may dispose of the container. After more than three consecutive occasions, the jurisdiction may impose additional contamination processing fees on the generator and may impose fees. All entities that are found in violation have an opportunity to remedy the failure to comply before any fines or penalties are imposed. Further, the regulations do not require penalties for contamination.
9043	Scheibly, K., Marin Sanitary Service	(45) "Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties. Shouldn't the correction date be on the (NOTC) notice?	A change to the regulatory text is not necessary. Section 18982(a)(45) states in the definition of a Notice of Violation, the notice does include a compliance date to avoid an action to seek penalties. A Notice and Order to Correct allows an additional 30 days from the original compliance date in the Notice of Violation.
9044	Scheibly, K., Marin Sanitary Service	(75) "Violation" means a lack of compliance with a requirement of this chapter or local ordinance(s) adopted pursuant to this chapter. We would urge CalRecycle define the difference between a warning and a true violation. Reporting, in our opinion, should be on the violations and not on the warnings issued. Since the goal is clean organics.	CalRecycle has revised section 18981 to remove the definition of "violation." The regulations set prescriptive standards. An entity is either in compliance or not with these standards. A jurisdiction may issue a warning within the 60 days before the Notice of Violation is required to be issued.
9045	Scheibly, K., Marin Sanitary Service	We would like to suggest definitions of sample size and/or statistical significance.	Comment noted. Comment is not commenting on the regulatory language.
9046	Scheibly, K., Marin Sanitary Service	(a) Four split carts. We would like to clarify that a dual stream program does not necessarily mean split cart. For residential customers, MSS supplies a brown body split recycling cart with a blue lid for containers and a brown lid for fibers. Commercial and MF customers do not have split carts but are supplied with separate blue carts for fibers and brown carts for containers. To be compliant, would all our recycling cart lids have to be shades of blue?	The regulations specify that it could be a cart or a split container. Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container.
9047	Scheibly, K., Marin Sanitary Service	(b) route review for prohibited container and contaminants on a quarterly basis. This is a costly endeavour. We suggest that routes in which contamination is an issue	Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container

Comment Number	Received From	Question/Comment	Response(s)
		are reviewed on a quarterly basis. The time and money should be spent on problematic routes and not on all routes.	<p>on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
9048	Scheibly, K., Marin Sanitary Service	(b) route review for prohibited container and contaminants on a quarterly basis.Should there be a set number to audit for statistical significance?	<p>For clarity, the regulations allow the jurisdictions to determine random selection, which is the least costly and burdensome approach compared to requiring statistically significant sampling. Thank you for the comment. CalRecycle made the proposed changes, including changing from quarterly to annually. Also, jurisdictions may set what the routes are and the number of random containers to select, which is the least costly and burdensome approach. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
9049	Scheibly, K., Marin Sanitary Service	(b) route review for prohibited container and contaminants on a quarterly basis. Does CalRecycle anticipate issues with violation of privacy complaints from conducting lid flip audits?	This requirement does not violate federal or California privacy laws. California v Greenwood (438 US 35) and its progeny have held that once a person has left trash containers out for collection, there is no reasonable expectation of privacy in the contents of those containers and, therefore, no implication or violation of privacy laws
9050	Scheibly, K., Marin Sanitary Service	observing contamination. All contamination is not equal. One glass bottle in an organics cart is too much. One battery in the recycling is too much. A single bag of trash in either cart that can be easily removed will be removed by our drivers and sorters. MSS would leave notices for all customers; however, we feel there should be more flexibility in enforcement for minimal contamination.	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
9051	Scheibly, K., Marin Sanitary Service	(d)(1) must report each month to the jurisdiction. MSS feels that monthly reporting may be overly burdensome especially if pictures are required to be attached. Since the goal is less contamination and more diversion, we feel only those that receive fines for violations should be included in the reporting along with addresses and supporting evidence such as photos. We feel that customers who receive warning notices should be tracked but only on a high-level numerical level not at the individual generator level.	CalRecycle has revised Section 18984.5(b)(4) to remove 'if available, any' and add 'the designee shall keep a record.' The change is necessary to clarify that not all photos must be provided because this is too burdensome; a jurisdiction may request more photographic documentation and the designee must retain all photographic documentation. Additionally designees are not required to inspect a set minimum number of individual generators on a monthly basis.
9052	Scheibly, K., Marin Sanitary Service	(a)(3) copies of all written notices, violations and enforcement actions issues to generators. Providing copies of all notices on the generator level will be time consuming and costly. We suggest supplying copies of all materials provided to customers and a log of types of contacts and materials that were sent out with dates.	Comment noted, CalRecycle revised and streamlined the recordkeeping requirements. The recordkeeping requirements for enforcement orders represent the minimum level of record keeping that any entity taking enforcement would need to keep, regardless of the requirements of this regulation.
9053	Scheibly, K., Marin Sanitary Service	This is very burdensome and will be hard to enforce. We feel the De Minimis amount should not be less than the smallest size container offered which is a 32 gallon in most areas. Otherwise, the law as written, makes it sound like a jurisdiction/hauler may have to supply smaller organics containers. De minimis should be less than 32 gallons per week regardless of MSW generated.	A change to the regulatory text is not necessary. A text change is not necessary because the law does not imply jurisdictions must supply smaller organics containers. Rather, this section allows jurisdictions grant waivers for the smallest organic waste generators. The threshold of 10 and 20 gallons respectively equate to roughly 10 percent of waste generation for small businesses that produce less than 2 cubic yards and more than 2 cubic yard of organic waste per week. This de minimis threshold was established based on input from stakeholders while also ensuring that these waivers do not compromise the state's ability to achieve the organic waste reduction targets.
9054	Scheibly, K., Marin Sanitary Service	How often does the generator have to prove they should be exempt? Annually? Quarterly? Who is responsible for the cost of proof?	A change to the regulatory text is not necessary. A text change is not necessary because the comment is asking for clarification not requesting a change. CalRecycle notes that the frequency of inspection has been revised. The language provides some flexibility for the jurisdiction to determine the waiver application and processes.
9055	Scheibly, K., Marin Sanitary Service	Limited english speaking. Is google translate on the website sufficient for the language requirements?	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
9056	Scheibly, K., Marin Sanitary Service	The only way to determine if a business is truly compliant is to do a full waste characterization study. This is not feasible and will add considerable cost to jurisdictions and rate payers. At MSS, we identify if customers meet the required threshold with the law then we audit the service records to see if the customer is	A change to the regulatory text is not necessary. Section 18995.1 requires a jurisdiction to do an annual compliance review of all commercial businesses that generate two cubic yards or more per week of solid waste and produce organic waste. A jurisdiction implementing a two or three container collection service are required to conduct route reviews for prohibited container

Comment Number	Received From	Question/Comment	Response(s)
		<p>subscribing to diversion services. Annually, we perform visual audits to see if divertible materials are still being landfilled.</p>	<p>contaminants on randomly selected containers or performing waste composition studies as prescribed in Section 18984.5.</p>
9057	Scheibly, K., Marin Sanitary Service	<p>According to the definition of organic waste, pg. 5 line 45, the following stream would need a 1 CY sample daily, correct? A. food waste b. green materials c. Wood/lumber d. paper/paper products</p>	<p>CalRecycle staff has noted the comment. Yes, you are correct. Section 18982(a)(46) includes food waste, green material, wood, lumber, paper, and paper products in the definition of organic waste and would therefore be required to meet the measurement protocol.</p>
9058	Scheibly, K., Marin Sanitary Service	<p>This is very costly and time consuming and will significantly slow processing operations. Perhaps load checks could be done with a visual audit using a grid system similar to what was suggested for C&D activities in a report from Cascadia to CIWMB in October 2006. This could be performed monthly and submitted to the LEA. If the LEA determines the materials are clean, then this should go to quarterly visual inspection. Daily, weight-based studies should only be required if a facility is showing a high percentage of non-organics in the processed stream. Also, we are unclear how we would audit food waste that we process prior to sending it to the waste stream treatment plant for digestion since the material is virtually liquid.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17409.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
9059	Scheibly, K., Marin Sanitary Service	<p>The MSS SSO collection program is consistently less than 2% contaminated. We have never had a load of organics rejected at the composting facility we use. There should be language that rewards facilities like ours by decreasing the frequency of load checking and reporting.</p>	<p>Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate. Operators can propose an alternative measurement such as a different sampling frequency and/or weight, or a different methodology for determining organic waste recovery efficiency as long as it is as accurate as the prescribed requirement.</p>
3036	Scherson, Y., Anaergia	<p>In the three-cart system summarized in Article 3, section 18984.1 a jurisdiction can choose to collect food waste in the green bin or the black bin. Food waste collection in the black bin requires processing in a high diversion organics facility demonstrating 75% organics capture. Food waste collection in the green bin does not have any quantitative requirement for organics capture. This is a loop hole whereby collection of organics in the green bin is compliant even if only a small fraction of food waste is recovered, and a majority of food waste remains in the black bin destined for landfill. The recommendation is to require food waste collection in the green bin to be subject to the same black bin standard of 75% organics recovery. This can be achieved with a quantitative audit of the green and black bins at the same frequency as the measurement frequency of the high diversion organics processing facility. This revision is necessary to ensure the success of SB 1383 by: (1) eliminating a loop hole that would result in little organics capture and would be a preferred path of least resistance, (2) ensuring that any collection selected by a jurisdiction results in a majority organics diverted from landfill, and (3) providing jurisdictions with options that are equitable so no one option is viewed as "easier" to satisfy and jurisdiction can make the best decision for their constituencies.</p>	<p>Section 18984.5 already requires all types of containers to be monitored. Instead of setting a performance standard on green containers, CalRecycle established container monitoring requirements and facility checking/monitoring. However organic waste recovery efficiency will be measured at facilities receiving source separated organic waste.</p>
3037	Scherson, Y., Anaergia	<p>Article 3, section 18984.1, allows for food waste to be collected in the green bin or the black bin under a three cart collection system. Our concern is that the standards</p>	<p>Section 18984.5 already requires all types of containers to be monitored. Instead of setting a performance standard on green containers, CalRecycle established container monitoring</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>for compliance between the green bin and black bin collection are vastly unequal, thus incentivizing jurisdictions to collect food waste in the green waste bin simply because there is no numeric standard that needs to be met under this approach and compliance is measured by “qualitative” methods that are soft and easy to meet compared to the black bin collection and processing option. The unintended consequence is a jurisdiction would likely have a scenario where little food waste from the catchment is placed in the green cart but the program would still be compliant with SB 1383 simply because residents are “trying” to put food waste, regardless of quantity or actual capture rate, in the green bin. The regulation only requires collection and processing of food waste in the green bin without a numeric standard. Considering the vast majority of food waste is collected in the black bin in California, it is very likely little food waste would be recovered in the green bin with relaxed standards and compliance being met just for attempting to separate food waste in the green bin regardless of overall capture rate.</p> <p>In contrast, food waste collection and processing in the black bin, where the vast majority of California’s food waste is located today, requires a facility to meet and demonstrate a more stringent and quantitative requirement of 75% organics capture to qualify as an SB 1383 complaint solution. Having a numeric and quantifiable standard is important for a successful program to ensure organics are in fact recycled and at large quantities to meet the State’s 75% diversion goal. We are concerned that the current form of the regulation with the preferred three cart system favors the green bin pathway over the black bin pathway for organics recycling with a far easier compliance standard to meet that will fail to recover a majority of organics in a catchment because the green bin pathway only requires a jurisdiction to collect food waste at any quantity and with any capture rate, even if it is low. We firmly believe the success of SB 1383 is paramount in combating climate change and believe an equal numeric requirement is needed for both pathways so jurisdictions can have a truly equal choice and have the ability to require haulers and recyclers to meet numeric standards that ensure a majority of organics in a catchment will in fact be recycled – thus ensuring SB 1383 is in fact effective in diverting organics.</p> <p>We recommend introducing a numeric standard on green bin collection of food waste that is equal in measurement frequency and equal in capture rate requirement as the black bin collection pathway. In other words to “level the playing field”. One way to accomplish this under a green bin collection pathway is to conduct waste characterization audits of the black bin and green bin at equal frequencies and sample size as the compliance requirement on high diversion organic recycling facilities whereby at least 75% of the organics must be captured in the green bin.</p> <p>Our main concern is to ensure both pathways have equally high standards to ensure 75% of organics are in fact diverted from landfill with food waste collection in either the green or black bin. This will ensure jurisdictions have equal options to choose</p>	<p>requirements and facility checking/monitoring. However organic waste recovery efficiency will be measured at facilities receiving source separated organic waste.</p>

Comment Number	Received From	Question/Comment	Response(s)
		from and that the regulation in fact ensures majority of organics are diverted from landfill with clear quantifiable standards.	
3380	Schneider, A., RecycleMore -- West Contra Costa Integrated Waste Mgmt Authority	18984.1 (5-A) – The following shall not be collected in the green container. Rigid Compostable Plastics are a common contaminant in many organics collection programs. Few, if any, facilities actually process them. Consider adding Rigid Compostable Plastics to the definitions, as well as to the list of prohibited items. We suggest “Rigid Compostable Plastics are prohibited in the green container unless allowed by the jurisdiction or hauler”.	<p>The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility’s normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
3381	Schneider, A., RecycleMore -- West Contra Costa Integrated Waste Mgmt Authority	18984.7 – Container Color Requirements. Requiring only lid of the container to match the color standards is a concern for our jurisdiction. Our hauler uses blue metal bins for trash, recycling and organics, leading to generator confusion and cross contamination. The early draft requirement for standardized container color was going to address part of that problem. We feel that only requiring the container lid to match the color standard will be much less effective for identifying material type. One reason the colored lid alone will not suffice in our jurisdiction is when bin lids are left open after service. If the lid is folded back, colored bin lids will not consistently be an indicator of material type. Likewise, rollcart lids break regularly and are not always repaired in a timely manner. If the regulations will continue to only require the lids to match the container color standard, then the timeline for completion should be reduced to 2025. We also recommend rewording this section to say “lid color requirements” as these “lid only” details are currently only included in the definitions section.	<p>The language was revised and the color may be on the lid or the body of the container with the lid being the same color, black, or gray. The change provides flexibility to jurisdictions. In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions. Additionally, it is not necessary to change the title of the section as the requirements do not just apply to the lids.</p>

Comment Number	Received From	Question/Comment	Response(s)
3382	Schneider, A., RecycleMore -- West Contra Costa Integrated Waste Mgmt Authority	18984.8 – Container Labeling Requirement. Container labels are essential to identify the material type for each stream. The current text only requires new containers or lids to be labeled. Consider requiring all containers or lids to be labeled by 2025.	This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.
3383	Schneider, A., RecycleMore -- West Contra Costa Integrated Waste Mgmt Authority	18981.2 - Implementation Requirement on Jurisdictions We have a general concern that the timeline to complete all ordinances, staffing requirements, customer rate adjustments and hauler fleet additions is insufficient. Jan. 1, 2023 is more reasonable for effective implementation.	Comment noted. CalRecycle is declining to extend the initial compliance date because a substantial delay will be in conflict with the statutory requirement that the regulations achieve 75% organic waste diversion from landfills by 2025. The proposed delay would make the window too small.
2085	Schoonmaker, Kelly; Alameda County StopWaste.org	Expand list of products that may be applied to the procurement target to include at least mulch, biochar, renewable diesel, and electricity.	CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, heating applications and mulch. CalRecycle determined that biochar should not be included.
2086	Schoonmaker, Kelly; Alameda County StopWaste.org	Reduce the level of the target. It's just more compost than most jurisdictions can use. Ex: Oakland uses about 1,000 CY/yr but would be required to use 43k CY/yr and cost over \$1M/yr. WELO enforcement gets them to about 39k CY.	The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products, including mulch and renewable electricity from in-vessel digestion and biomass conversion, to provide jurisdictions with even more flexibility to choose product that fit local needs. CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. If, as mentioned in the comment, the city has limited need for compost, mulch, or fuel, the city may procure electricity or heating applications derived from renewable gas. If the city is capable of reducing or eliminating its use of fossil gas entirely, it could correspondingly reduce or eliminate its procurement obligation under the regulation. This provision was added to ensure jurisdictions are not required to procure more material than they can actually use, and to ensure that the requirements do not conflict with other environmental goals to reduce the carbon intensity of products and activities cities procure material for use.
2087	Schoonmaker, Kelly; Alameda County StopWaste.org	Allow additional pathways to compliance, including WELO enforcement, storm water biotreatment areas, and compost application through the healthy soils program. All methods have existing reporting and verification mechanisms.	The proposed regulations were revised in to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELo. CalRecycle disagrees with the approach of counting all MWELo-compliant compost and mulch towards a jurisdiction's procurement target. This would allow products procured for new or

Comment Number	Received From	Question/Comment	Response(s)
		Moreover, spreading procurement out over many entities builds a more robust and resilient market than requiring some agencies to buy it.	expanded developments, which jurisdictions should already require to use compost or mulch, to count towards a jurisdiction's procurement target, regardless of whether that entity is a direct service provider to the jurisdiction, or has any relation to the jurisdiction at all. As noted above entities subject to MWELo should already use compost or mulch under MWELo. A jurisdiction must work with non-jurisdictional entities to develop a direct service provider contract or agreement in order to count procurement towards the target. Regarding "spreading procurement out over many entities," CalRecycle cannot impose procurement mandates on other sectors without the necessary statutory authority, which SB 1383 lacks. Regarding the "healthy soils program," CalRecycle participated in development and implementation of the Healthy Soils Initiative (HSI) and assisted the California Department of Food and Agriculture (CDFA) in developing reimbursable compost application rates, estimating nitrate loads following compost application, developing the HSI grant application, and including compost application as an eligible soil management practice. While CalRecycle appreciates the ability to provide input, the HSI is ultimately under the regulatory authority of CDFA, not CalRecycle.
2088	Schoonmaker, Kelly; Alameda County StopWaste.org	Change units to cubic yards, not tons. Bulk densities range from 500-1100 lbs/CY and we find 800 lb / CY is representative	CalRecycle has added the following conversion: 1 ton of organic waste feedstock = 0.58 tons compost = 1.45 cubic yards compost. This is based on 1 ton compost = 2.5 cubic yards using the commenter's recommended bulk density factor of 800 lbs/cubic yard, which is the same value used by the Department of Transportation (CalTrans). Note that cubic yards does not replace tons in the regulatory language; it is simply an alternative unit of measure.
2089	Schoonmaker, Kelly; Alameda County StopWaste.org	Revisit cost analysis, which has a unit mistake in the SLCP economic analysis. Rather than tons, the price for PalO Alto and SF should be per CY—with no change to the value. I.e., change \$25/ton to \$25/CY. Makes a big difference	Comment noted. CalRecycle disagrees that the cost per ton of compost is underestimated. CalRecycle revised the estimated cost of compost in the Appendix to the ISOR. CalRecycle estimated the cost of compost by conducting a survey of several facilities in California, which found that the overall cost to purchase compost at a bulk rate, transport it, and apply the compost to land was \$30 per ton of compost.
2090	Schoonmaker, Kelly; Alameda County StopWaste.org	Application rate assumes for city procurement exemption that is more applicable for compost than fuel is.	Regarding the WELo application rate, CalRecycle acknowledges that the application rate may not apply to all scenarios where compost is applied. The WELo application rate was not used to determine procurement targets or the total cost of the regulations. The WELo application rate was used in the SRIA to illustrate the potential amount of land compost could be applied to as a result of the regulation.
2091	Schoonmaker, Kelly; Alameda County StopWaste.org	Let's work together find a baseline for compost procurement exemption that is more applicable for compost than fuel use is.	The intent of section 18993.1(j) is to provide jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. Given the potential difficulty of determining conversion factors for comparable products to compost (e.g. liquid chemical fertilizers compared to solid compost), jurisdictions have the option to use their previous year's procurement of gas, which have readily available organic waste conversion factors, to lower their procurement target. The focus on energy products is intended to simplify the process by which a jurisdiction can lower its procurement target. Although this mechanism relies only on fuel, electricity, and gas procurement, a jurisdiction can still choose to meet its lowered procurement target with any recovered organic waste products, including compost.

Comment Number	Received From	Question/Comment	Response(s)
2092	Schoonmaker, Kelly; Alameda County StopWaste.org	Support procurement by jurisdictions by providing financial support for regional sustainable landscape trainings. Trainings are provided by ReScape California, G3, and Green Gardener. Using compost is a major paradigm shift for most landscape maintenance staff and without training people won't use it.	Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. Regarding training, CalRecycle generally agrees that training for local sustainable landscape maintenance and design is valuable.
2093	Schoonmaker, Kelly; Alameda County StopWaste.org	Special districts and school districts' use should count toward jurisdiction's procurement requirement. Ex: all of city of Livermore's parks are maintained by the Livermore Area Rec and Park District and the city would want to count that use to any procurement targets.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to "develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state." These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding "nonlocal entities", it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction's population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
6328	Schutz, J., City of San Rafael	General: As drafted, the regulations are overly prescriptive and onerous for cities such as ours that already have programs in place. We would like to see a performance-based pathway to compliance. Our City and hauler have been at the forefront in the state in organics recycling, and our hauler and local composting facility already have programs in place that need to be strengthened, not reconfigured to meet prescriptive mandates. We hope that these regulations can be significantly streamlined and simplified.	Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.

Comment Number	Received From	Question/Comment	Response(s)
6329	Schutz, J., City of San Rafael	Reporting Requirements & Cost Burden. The current reporting requirements add a significant burden and extremely significant cost ramifications. The amount of staff time that would be required to document all the detailed aspects of the Implementation Record take away from resources that could be used to educate and enforce the generator and hauler requirements. We would like to see a reduction in the number of reporting requirements and types of information required to only what is necessary to determine compliance.	Comment noted, CalRecycle reduced some reporting requirements and changed many of the reporting requirements to recordkeeping requirements in response to this comment.
6330	Schutz, J., City of San Rafael	Enforcement: As an unfunded mandate, we would prefer to see less prescriptive enforcement provisions, allowing local jurisdictions to craft enforcement protocols that work locally. This would allow us to refine and adapt as necessary and be nimble in the face of constantly changing product compositions. In addition, the current regulations are unrealistic to implement due to the difficulty of gaining access to businesses' internal refuse containers and the cost associated with the extensive time necessary for inspections.	CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.
6331	Schutz, J., City of San Rafael	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products using targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. This is an industry in flux, and prescriptive regulations run the risk of many unintended consequences. For example, a statewide estimate of organics generated per capita or relying on current transportation fuel use estimates to determine the amount of compost to be procured as proposed in the regulations would result in more compost than could be used and put even more undue financial burden on cities.	Comment noted. CalRecycle did include provisions in the regulations that act as a "safety valve" to relieve levels of required procurement if it exceeds a jurisdiction's need.
6332	Schutz, J., City of San Rafael	Definitions for Organic Waste, Paper Products, and Contamination. The definitions as they stand include items that are considered contamination in our area, and that our local composting and recycling facilities will not accept due to bio hazards and plastic or other non-organic materials being affixed to them. This could have the unintended consequence of causing our local hauler to find new facilities to accept the material, which are much further away and would cause increased emissions and cost. In addition, some of the items in the definitions are considered hazardous waste and could put workers at risk. Toward that end we would like to clarify that local ordinances may be more restrictive in terms of what is mandated to be composted. In this way we can more effectively reduce contamination and increase diversion based on acceptable materials at our local facilities, which serve many more jurisdictions than just San Rafael.	Comment noted. The definition of organic waste employed in these regulations is specific to the purpose and necessity of this regulation. Regulations adopted by other agencies or codified in other portions of statute, can employ a different definition for a different purpose. Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute. Comment noted. The definition of organic waste clearly identifies materials that are types of organic waste. It is not feasible or necessary to state in the negative every conceivable material that is not an organic waste. These regulations specify the minimum standards that apply to each type of collections service that a jurisdictions provides to its

Comment Number	Received From	Question/Comment	Response(s)
			<p>generators. While there are minimum standards, CalRecycle is allowing some flexibility stating what ‘may’ go into the container in some subsections, instead of stating what ‘shall’ go into the container. These minimum standards ensure that every Californian understands what material types must go in each container.</p> <p>Regulatory oversight is necessary to ensure that source-separated organic waste is not mixed with non-organic waste. This section is necessary to ensure the state is able to meet organic waste recovery targets established in statute.</p> <p>Also, biohazardous and household hazardous materials must be managed in accordance with other state laws and regulations.</p>
6333	Schutz, J., City of San Rafael	<p>Food Waste Reduction & Recovery. The first item in conservation is to reduce the amount produced or consumed. Food waste prevention is the most impactful and least resource intensive strategy to reduce GHG emissions from food. We wish to see an exemption from food donation provision in the regulations that recognizes and rewards the upstream efforts of generators implementing food waste prevention practices. In addition, although we fully support food recovery programs, we have a concern that these regulations would increase “food dumping” and cause our local nonprofits to have to deal with an influx of inedible or unhealthy food. In addition, providing a statewide platform for generators and food recovery organizations to report directly to the state would reduce the reporting burden on jurisdictions.</p>	<p>SB 1383’s statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a food waste prevention or source reduction of food waste target. As a result, CalRecycle will not require commercial edible food generators or jurisdictions to prevent or source reduce the amount of edible food they generate.</p> <p>CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for food recovery that are not desired by food recovery organizations or services. One example would be a generator having significant quantities of food that does not meet the nutrition standards of food recovery organizations or food recovery services. To address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste.</p> <p>Adding a section for commercial edible food generator exemptions and de-minimis waivers to the regulatory text was not necessary. Adding a section for exemptions and de-minimis waivers was not necessary because the regulations are already structured so that many food facilities and food service establishments are exempt from compliance due to the smaller amounts of edible food they typically dispose. Only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or tier two commercial edible food generator is exempt from SB 1383’s regulations. CalRecycle recognizes, however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this issue, CalRecycle revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3 extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. And (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters CalRecycle recognizes that donation dumping occurs. The regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383's regulations prohibiting a food recovery organization or food recovery service from terminating their relationship with that particular generator.</p> <p>CalRecycle also developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and services from donation dumping and unexpected donations. The model food recovery agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.</p> <p>Regarding the comment about developing a statewide platform where food recovery organizations and services and generators could report directly to the state, CalRecycle would like to clarify that commercial edible food generators do not have any reporting requirements. Commercial edible food generators have recordkeeping requirements. Therefore, a statewide reporting platform for commercial edible food generators to report directly to that state is not necessary. In addition, a statewide reporting platform where food recovery services and organizations would report directly to the state rather than to jurisdictions as commenters requested, would severely reduce each jurisdiction's ability to assess the effectiveness of their food recovery program and identify if improvements need to be made. Furthermore, the data that is reported directly to the jurisdiction is critical for helping the jurisdiction better understand the food recovery organizations and services making the greatest impact in their jurisdiction. This data can be used to help jurisdictions make decisions about food recovery organizations and services to promote and potentially direct funds to.</p>
5032	Scott, R. Keep California Beautiful	<p>If the manufactures of carts are going to be producing more carts and lids then they should be held responsible for the amount of carts & lids to be recycle, as part of CalRecycle's Extended Producer Responsibility (EPR). Where in SB 1383 is this addressed to avoid the potential negative impact to landfills and additional costs to residents, commercial and governmental entities of California?</p>	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. EPR is beyond the scope of this rulemaking.</p>
4572	Selling, M. City of Galt	<p>Financial Burden SB 1383 and the draft regulations represent a significant expenditure mandate to local jurisdictions with essentially no financial support from the State of California. This regulation effectively mandates the City of Galt to require organics collection from its hauler, who will in tum be required to increase their fleet, hire new staff to comply with outreach and enforcement requirements, make significant improvements to existing facilities, and develop new organic processing facilities. The fiscal impact on our residents and businesses will be immediate and cumbersome. The City's monthly rates were recently updated to implement previous legislation requirements, and this could represent an additional increase of up to 50%. The City requests that Cal Recycle considers the overall fiscal impact of the proposed requirements, especially under such short timeframes.</p>	<p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>

Comment Number	Received From	Question/Comment	Response(s)
4573	Selling, M. City of Galt	<p>Facility Improvements/Development</p> <p>Handling of residential food waste in the green containers will require substantial improvements to the City of Galt's Hauler's facilities. Green waste traditionally has been collected, stored temporarily, and transferred at processing facilities. Introduction of food waste into the green waste will require that material be managed inside covered facilities. Improvements to the existing facilities to transfer organic wastes are costly, and could take years. A delay to the 2022 deadline residential food waste collection would reduce the burden on local jurisdictions, residents, and businesses.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
5013	Serrano, R, San Diego County LEA	<p>Section 18083(c) This section was brought up as a concern at every Local Enforcement Agency (LEA) Round Table meeting throughout the state during January and February 2019. We request it be removed for the following reasons:</p> <ol style="list-style-type: none"> 1. The sections described (14 CCR Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1) already give LEAs authority to require the operator to increase the frequency of measurements and/or revise the measurement protocol to improve accuracy in instances where operator measurements do not accurately reflect the records being kept. The LEA already has authority to oversee such measurements when inspection findings warrant it, thereby rendering section 18083(c) unnecessary. 2. Section 18083(c) creates a mandate and performance standard for the LEA, requiring the LEA to spend a specific amount of time and effort to review a single action performed by the facility. Current measurement time is estimated to be 3-5 hours. 3. Section 18083(c) disregards LEA determination of facility compliance, unlike other sections that leave the LEA the option of observing measurements as needed. So even if a facility is consistently found to be compliant with measurement and load checking requirements the LEA is nonetheless required to perform quarterly observations, instead of dedicating time and resources to less compliant facilities. 	<p>CalRecycle has deleted Section 18083(c) in response to comments. The subdivision was removed, and the requirements were included as part of the transfer/processing EA verification requirements under Section 17409.5.12. The change will be aligned with the current standards the EA are already required as part of the EA Roles and Responsibilities. The EA will evaluate the operating standard as described in the operation document. The change was necessary for statewide consistency and ensures the measurements prescribed in the regulations are performed properly.</p>
5014	Serrano, R, San Diego County LEA	<p>Revise Proposed Section 18984.11(a)(3)(A)(1)</p> <p>Section 18984.11(a)(3)(A)(I) of the current draft regulations reads: The jurisdiction, or its authorized hauler, demonstrates to the Solid Waste Local Enforcement Agency that less frequent collection than required by Section 17331 of Title 14 of the California Code of Regulations will not result in the propagation of vectors or other public health and safety, or nuisance issues.</p>	<p>Section 18984.11 was revised to enforcement agency.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>1. Section 18984 identifies the Solid Waste Local Enforcement Agency as the designee to allow less frequent collection whereas Section 17331 designates the Local Health Officer. This section conflicts with the section that it cites.</p> <p>2. As an LEA, we do not wish to be the designee for less frequent collection and would like it to remain a Health Officer duty.</p>	
3611	Sheehan, M., West Valley Solid Waste Management Authority	<p>Section 0.1.2- The provisions of this section require that jurisdictions implement an SB 1383 compliant program by January 1, 2022. The regulations are clear that this timeline will not be altered by the inability of a jurisdiction to negotiate service agreements or implement rate changes. We are concerned that the requirement to implement programs at any cost is unreasonable and should be mitigated by placing controls on profiteering.</p> <p>The majority of agencies around the state have franchise agreements that last beyond this implementation date and assure the existing service provider that their proposal for SB 1383 implementation will not be tested competitively through an RFP. Given the exclusive nature of most franchise agreements and the penalties for non-compliance, private service providers have tremendous leverage over ratepayers in this situation. Our current contract is set to expire in 2024 putting us in a precarious negotiating position to meet the 2022 compliance date.</p> <p>The WWSWMA supports the goals of SB 1383 and we respect that CalRecycle cannot forgive implementation requirements solely on the basis that agencies do not want to increase rates. However, as a public agency, Cal Recycle has a responsibility to ensure that these regulations do not write a "blank check" to the private sector providers of these services. WWSWMA recommends that Cal Recycle provide a mechanism to mitigate the ability of private service providers to take advantage of jurisdictions seeking to comply with the regulations in good faith. While there is no perfect solution to this dilemma, we have a few potential mitigation options:</p> <ul style="list-style-type: none"> • Require private service providers to supply local jurisdictions with any supporting documentation, including all information about current costs of service and operations in their community, during any inducement into a public contract. • Create a process for jurisdictions to appeal to CalRecycle or an independent third party to review and make determinations about whether rates are reasonable or reflect excessive profit generation. In cases where they do, jurisdictions should be: 1) permitted to terminate their agreements, subject to certain notice, without penalty; 2) granted a two year compliance waiver, specific to the compliance elements that are subject to the scope of the franchise agreement; and/or, 3) required to take those responsibilities in-house with the jurisdiction or competitively solicit proposals for the required services. • CalRecycle could regulate the renegotiation process and determine what is considered an appropriate and reasonable rate. CalRecycle may consider modeling this regulatory process after the CPUC rate regulation process for water and energy utilities. 	Under the Public Resources Code 40059, solid waste franchise agreements, negotiations, and fees are reserved for local control. CalRecycle therefore will not be adding regulatory provisions in response to this comment.

Comment Number	Received From	Question/Comment	Response(s)
3612	Sheehan, M., West Valley Solid Waste Management Authority	<p>Article 13. Reporting</p> <p>Cal Recycle has frequently described these regulations as a shared responsibility between a number of stakeholders in the solid waste management system in California. Local agencies have been encouraged by the promise of this transition from a jurisdiction-focused compliance program to one where all of the stakeholders are accountable. Unfortunately, Article 13 and several other reporting and record-keeping subsections of the agreement appear to revert to a jurisdiction-focused compliance program, ultimately requiring each jurisdiction to gather and report data to CalRecycle and placing nearly all of the penalties on local agencies for failure to comply. Given the cross-jurisdictional nature of hauling and processing facilities, it is easy and very common for private providers to play "shell games" with diversion, reporting the same diversion for multiple agencies.</p> <p>The WWSWMA requests that Ca/Recycle establish a direct reporting requirement to Ca/Recycle for haulers and processors, including but not limited to specifying data by jurisdiction and material type and balancing inputs and outputs. Unlike AB 901, we request that all data submitted through this process be fully transparent to the public, or at least to the jurisdiction(s) that are the subject of the reports. Ca/Recycle should then utilize these reports to reconcile the data provided by the jurisdictions. Furthermore, we recommend that the current requirements on jurisdictions be placed directly on haulers and processors (public or private) for contamination monitoring, outreach, and recordkeeping/reporting. We believe this approach will better align with the "shared responsibility" intention of SB 1383 and may result in more actual organics diversion rather than reported diversion.</p>	<p>Comment noted. The regulations require use of existing RDRS reporting for requirements that haulers and solid waste facilities must report. AB 901 eliminated reporting from facilities to counties and requires reports to be sent directly to CalRecycle. It would be contrary to legislative intent to reinstate a requirement for data to be reported to counties or jurisdictions. CalRecycle makes the results of data that is not proprietary available to the public, can additional data is available through a public records act request. The requirements in the regulation are appropriately distributed between haulers and jurisdictions according to their authority. Jurisdictions are required to provide services to their residents. Private haulers do not have "residents" subject to their authority except through the authorization of the jurisdiction. CalRecycle included language in the regulations authorizing jurisdictions to their responsibilities to haulers as appropriate.</p>
3613	Sheehan, M., West Valley Solid Waste Management Authority	<p>Section 18982(a)(65) - "Route review" is defined as "a visual inspection of containers along a hauler route for the purpose of determining container contamination and may include mechanical inspection methods such as the use of cameras." While the regulations require route reviews to be conducted on randomly selected containers so that all collection routes are reviewed quarterly, no minimum quantity of container inspections per route is specified. This may result in haulers or jurisdictions inspecting minimal containers during route reviews. Another concern is an inconsistent interpretation or application of the minimum standards by Local Enforcement Agents.</p> <p>The WWSWMA recommends that Ca/Recycle amend this definition or the corresponding container contamination section (18984.5) to specify a minimum percentage of containers or number of customers along the route to be inspected. This approach will allow for a consistent application of the regulations across jurisdictions and ensure that the intent of this section is realized.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction.</p>
3614	Sheehan, M., West Valley Solid Waste Management Authority	<p>Article 3. Organic Waste Collection Services</p> <p>Section 18984.11(a){2} -This subsection allows jurisdictions to waive organics program requirements due to physical space limitations. While it seems appropriate and necessary to allow for some limited space waivers, those waivers could potentially exempt a significant number of generators in older buildings and in</p>	<p>Since it is a jurisdiction provided waiver, a jurisdiction can set more stringent criteria in administering the physical space waiver. CalRecycle rejects the assumption that a significant number of generators could demonstrate legitimate physical space constraints. According to jurisdictions with similar space constraints waivers, very few businesses can demonstrate the existences of space constraints that cannot be addressed. There are few instances where a</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>urban areas where parking and rentable space are highly valuable. In addition, in non-exclusive service areas, the ability of the hauler to sign off on the space accommodation waiver may create unintended consequences that allow haulers to sign off on those waivers to undercut competition, and/or avoid providing recycling service.</p> <p>The WVSWMA recommends that Ca/Recycle clarify what constitutes "evidence demonstrating a lack of adequate space." Implementing standards, a process for allowing potential waivers for space constraints, or minimum documentation standards will encourage a consistent application of this section across jurisdictions, as opposed to leaving interpretation up to the Local Enforcement Agents.</p>	<p>business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers are downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). This waiver intends to allow flexibility for businesses with legitimate and cost-prohibitive space constraints without compromising the state's ability to achieve the organic waste reduction targets.</p> <p>In regards to levying fees jurisdictions should consult their city or county counsel on how to appropriately structure fees.</p> <p>CalRecycle has not included implementation standards or minimum documentation requirements to allow jurisdictions set appropriate criteria. Jurisdictions, not haulers, administer the waiver, so the physical space waiver will not result in a race to the bottom in nonexclusive service areas. A hauler, licensed architect, engineer, or similarly qualified source may provide evidence that a premise has a legitimate space constraint. If a jurisdiction has concerns about haulers in nonexclusive service areas, they can opt not to issue waivers or use a qualified source other than a hauler to demonstrate lack of adequate space for separate organic waste containers.</p>
3615	Sheehan, M., West Valley Solid Waste Management Authority	<p>Section 18985.2(a) -This section requires that each jurisdiction develop a list of edible food recovery services and organizations operating within each jurisdiction and post the information on their website. It seems that many food recovery service providers and organizations work across jurisdictional boundaries including across county boundaries. There may be a significant amount of duplication of effort and dozens of inquiries to the food recovery services and organizations (who are typically short-staffed, understaffed, or run by volunteers).</p> <p>The WVSWMA recommends that Ca/Recycle consider establishing a State-wide database similar to FACIT where food recovery service providers and organizations can register and provide their information once for access to all jurisdictions and generators. This would also allow for a comparable level of information to be requested and provided in these lists (such as what type of food will and will not be accepted}. Alternatively, Ca/Recycle may want to consider establishing the generation of the list as a county requirement with the posting of the county-produced list on a jurisdiction's website as a jurisdictional requirement.</p>	<p>Although CalRecycle intends to provide tools and resources prior to 2022 to assist with SB 1383 edible food recovery regulatory compliance, it is critical that jurisdictions develop their own lists of food recovery organizations and services operating in their area. Developing a list that includes food recovery organizations and services that have sufficient capacity and a proven track record of safely and efficiently recovering food for human consumption will help jurisdictions assess their edible food recovery capacity and identify capacity needs that exist. In addition, developing local lists will help commercial edible food generators find organizations and services that are capable of safely handling and distributing recovered food on a regular basis in their area. The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping to feed people in need. For these reasons, it is critical that each jurisdiction develop their own list.</p>
3616	Sheehan, M., West Valley Solid Waste Management Authority	<p>Article 14. Enforcement Requirements</p> <p>General -This article will require a significant expenditure by jurisdictions throughout California to staff the enforcement efforts, including but not limited to: route reviews, compliance reviews, contamination monitoring, follow-up site visits, and the issuing of fines. Some agencies will choose to hire staff or incorporate these responsibilities into the work performed by existing code enforcement officers and/or health inspectors. In some agencies, there may not be a sufficient workload created by these requirements to justify a full-time position. In other agencies, there may be political objections to funding staff positions for this type of enforcement when other critical public health and safety matters are under-enforced. During the enforcement workshop, Cal Recycle suggested the potential for CalRecycle to perform the enforcement on behalf of agencies, similar to how agencies can arrange for CalRecycle to be the Local Enforcement Agency for</p>	<p>A change to the regulatory text is not necessary. CalRecycle will not be contracting with jurisdictions to perform inspection and enforcement actions. There are insufficient resources at the state level to contract out for jurisdictions.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>regulating solid waste facilities. The WVSWMA recommends that Ca/Recycle provide an option for jurisdictions to contract with Ca/Recycle to perform the inspection and enforcement procedures.</p>	
3617	Sheehan, M., West Valley Solid Waste Management Authority	<p>Section 18982(a)(55) -This section describes prohibited container contaminants as a zero tolerance definition. This becomes costly for jurisdictions or their designees to tag, notice, document, and report when conducting container inspections. The WVSWMA requests that Ca/Recycle please consider providing some allowance for minimal or insignificant levels of prohibited container contaminants in order to minimize costs and increase compliance for jurisdictions.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels. CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination. In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3618	Sheehan, M., West Valley Solid Waste Management Authority	<p>Article 2: Landfill Disposal and Reductions in Landfill Disposal Section 18983.1(a)(3) -If it is correct to interpret that the regulations require that materials collected in blue containers be delivered to high diversion organic waste facilities, this seems to be an unrealistic requirement for all recyclable materials. The WVSWMA requests that Ca/Recycle clarify if the regulations allow for recyclable materials collected in the blue carts to be delivered to a transfer/processing facility provided that the materials are processed for 50% and then 75% recovery of the organic portion (e.g., papers are targeted for recovery).</p>	<p>Blue containers are not required to be transported to a high-diversion organic waste processing facility.</p>
3619	Sheehan, M., West Valley Solid Waste Management Authority	<p>Article 3. Organic Waste Collection Services Section 18984.7 -This section requires that containers at the end of their useful life are replaced with SB 1383 color-compliant containers. This may lead to conflicts with current color schemes, or at a minimum may lead to containers of inconsistent colors throughout a jurisdiction. Inconsistent coloring dispersed throughout jurisdiction makes education and outreach a challenge as customers with different colored containers will require different messaging. Furthermore, this approach</p>	<p>The regulations provide that a jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>does not consider current container inventories that have already been procured to replace containers at the end of their useful life.</p> <p>The WVSWMA recommends that Co/Recycle eliminate the need to replace containers at the end of their useful life with SB 1383 color-compliant containers, and instead mandate that all containers comply with the color requirements described above by 2032. This will allow jurisdictions to utilize current container Inventor/es and allow for a uniform replacement of new containers and messaging throughout the jurisdiction.</p>	<p>in by 2036. This includes using existing inventory that was purchased prior to Jan. 1, 2022. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. Jurisdictions may also use inventory that was purchased prior to 2022.</p>
3620	Sheehan, M., West Valley Solid Waste Management Authority	<p>Section 18984.13- China's National Sword has presented difficult market conditions for paper.</p> <p>The WVSWMA asks if any waivers can be provided to address lack of markets.</p>	<p>A change to the regulatory text is not necessary. This section will not conflict with market conditions. Potential market shifts will impact all facilities. This section is necessary because the statute is intended to increase organics recycling, not decrease organics recycling. This provision is simply designed to prohibit a jurisdiction from requiring a generator to send its material to a facility that will recycle less of it than one they are currently sending it to</p>
3621	Sheehan, M., West Valley Solid Waste Management Authority	<p>Section 18994.l(a) - This section details the requirement for an initial compliance report on February 1, 2022 and then a first annual report on August 1, 2022, including data through June 30, 2022. It is unrealistic for jurisdictions to be able to receive the necessary hauler reports with June data in order to compile this information in time for an August 1 submittal.</p> <p>The WVSWMA requests that Ca/Recycle please reconsider and modify these dates in order to provide a more realistic timeline for submission of high quality and accurate reports.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>
3622	Sheehan, M., West Valley Solid Waste Management Authority	<p>Article 14. Enforcement Requirements</p> <p>Section 18995.l(a)(l)(A) - This section states that compliance reviews and route reviews shall be conducted to ensure compliance with the generator requirements outlined in Section 18984.9. It appears that this section is requiring the compliance reviews and route review to entail more than what the definition of these terms require in Sections 18982(a)(9) and 18982(a)(65). Under Section 18984.9(b) it states that commercial businesses shall periodically inspect organic waste containers for contamination and inform employees if containers are contaminated. It is unrealistic to expect that a jurisdiction's designee will be monitoring communication between businesses and their employees.</p> <p>The WVSWMA recommends that Section 18995.l(a)(l)(A) be amended to require that compliance reviews and route reviews ensure compliance with the generator requirements set forth in Section 18984.9(a). This will align the requirements of Section 18995.l(a)(l)(A) with the definitions specified in Article 1.</p>	<p>CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.</p>
3623	Sheehan, M., West Valley Solid Waste Management Authority	<p>Section 18995.l(a)(l)(A) - If the intent of this section is a desktop compliance review, then compliance with Section 18984.9(b) cannot be verified because Section 18984.9(b) will require site visits and inspection of internal operations of businesses.</p> <p>The WVSWMA recommends that the language be modified to exclude annual review of compliance with Section 18984.9(b).</p>	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter. The Department wanted to ensure a fair playing field for all entities and to identify that jurisdictions have the primary responsibility in monitoring compliance</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>and taking enforcement on entities failing to comply with the chapter. A compliance review is intended to be a “desk audit” to verify that all solid waste accounts for commercial businesses, that generate two cubic yards or more per week of solid waste, are subscribing to service or self-hauling organic waste to a facility that processes source separated organic waste or to a high diversion organic waste processing facility, whichever if applicable. The regulations allow the jurisdiction flexibility when conducting a “sufficient number of route reviews and inspections.” Jurisdiction may prioritize route reviews and inspections to large generators or entities it determines to be more likely out of compliance. If an entity is found to be noncompliant between January 1, 2020 through December 30, 2023, jurisdictions are required to provide educational material describing the applicable requirements of this Chapter.</p>
3624	Sheehan, M., West Valley Solid Waste Management Authority	Section 18996.l(b) -- The WVSWMA requests that Ca/Recycle specify the proposed frequency of the compliance evaluation.	<p>3624 The regulations do not establish a minimum or maximum frequency for CalRecycle review of compliance with the regulations. CalRecycle will prioritize compliance reviews in a manner that ensures compliance and that the state is able to achieve compliance with the statutory targets.</p> <p>3625 A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter. The Department wanted to ensure a fair playing field for all entities and to identify that jurisdictions have the primary responsibility in monitoring compliance and taking enforcement on entities failing to comply with the chapter. A compliance review is intended to be a “desk audit” to verify that all solid waste accounts for commercial businesses, that generate two cubic yards or more per week of solid waste, are subscribing to service or self-hauling organic waste to a facility that processes source separated organic waste or to a high diversion organic waste processing facility, whichever if applicable. The regulations allow the jurisdiction flexibility when conducting a “sufficient number of route reviews and inspections.” Jurisdiction may prioritize route reviews and inspections to large generators or entities it determines to be more likely out of compliance. If an entity is found to be noncompliant between January 1, 2020 through December 30, 2023, jurisdictions are required to provide educational material describing the applicable requirements of this Chapter.</p> <p>A change to the regulatory text is not necessary because every other week collection for blue containers is already allowed and many jurisdictions already offer this as part of their program.</p>
3625	Sheehan, M., West Valley Solid Waste Management Authority	Section 18995.2(d) -- The WVSWMA requests that Ca/Recycle please clarify which reporting period(s) is to be included in this section.	<p>A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter. The Department wanted to ensure a fair playing field for all entities and to identify that jurisdictions have the primary responsibility in monitoring compliance and taking enforcement on entities failing to comply with the chapter. A compliance review is</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>intended to be a “desk audit” to verify that all solid waste accounts for commercial businesses, that generate two cubic yards or more per week of solid waste, are subscribing to service or self-hauling organic waste to a facility that processes source separated organic waste or to a high diversion organic waste processing facility, whichever if applicable. The regulations allow the jurisdiction flexibility when conducting a “sufficient number of route reviews and inspections.” Jurisdiction may prioritize route reviews and inspections to large generators or entities it determines to be more likely out of compliance. If an entity is found to be noncompliant between January 1, 2020 through December 30, 2023, jurisdictions are required to provide educational material describing the applicable requirements of this Chapter.</p> <p>A change to the regulatory text is not necessary because every other week collection for blue containers is already allowed and many jurisdictions already offer this as part of their program.</p>
3626	Sheehan, M., West Valley Solid Waste Management Authority	Section 18997.3(c)-The 1st, 2nd, and 3rd violations layered with Level 1 through 6 penalty levels may be overly complex for this purpose.	CalRecycle has revised section 18997.2 in response to this comment. The penalty table for penalties imposed by the jurisdiction has been removed. A jurisdiction shall impose penalties for violations consistent with the graduated penalty amounts authorized in Sections 53069.4, 25132 and 36900 of the Government Code which is outlined in Section 18997.2(a).
4575	Smialek, K, Copia	We do have some concern that as a result of this regulation, nonprofits accepting food could face “donation dumping.” Donation dumping could result due to negligence from generators of edible food, or because of a lack of information on the specific quantity and types of food that are in demand at a specific nonprofit recipient. As the legislation is currently written, generators are not held accountable for validating that their donations are actually eaten versus composted at nonprofits, which leaves substantial risk of CalRecycle not understanding the true diversion thru these donations. Copia recommends having generators also report on how much of their donations are actually eaten, so that they are responsible for donating truly edible food to nonprofits that actually need that food at any given time. We suggest adding a reporting requirement for generators to maintain data on how much of their donations are actually eaten by their nonprofit recipients in ‘ Section 18991.4. Record Keeping Requirements For Commercial Edible Food Generators’.	<p>CalRecycle recognizes that donation dumping occurs. The regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383’s regulations prohibiting a food recovery organization or food recovery service from terminating their relationship with that particular generator.</p> <p>In addition, CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. The model food recovery agreement does include language to protect food recovery organizations and services from donation dumping and unexpected donations. The model food recovery agreement is a template and is intended to be customized based on the needs of food recovery entities and commercial edible food generators.</p> <p>With regard to adding more recordkeeping and new reporting requirements for commercial edible food generators, a change to the regulatory text was not necessary. The proposed requirements would be overly burdensome for commercial edible food generators and would increase their recordkeeping costs significantly.</p> <p>CalRecycle would like to note that during the informal rulemaking process the California Association of Food Banks expressed concerns that tracking residual food waste from generators would be very difficult for food recovery organizations and services. If it is already difficult for food recovery organizations and services to track the amount of recovered food that is actually consumed by people, then it is unreasonable to think that commercial edible food generators would be able to acquire this data from food recovery organizations and services.</p>
4576	Smialek, K, Copia	Section 18991.4. Record Keeping Requirements For Commercial Edible Food Generators’, Copia recommends that generators are also held accountable for	Regarding adding more recordkeeping requirements for commercial edible food generators, a change to the regulatory text was not necessary. A text change was not necessary because adding

Comment Number	Received From	Question/Comment	Response(s)
		<p>maintaining data on their baselines for both edible and inedible surplus. The volume of food waste will change throughout the year based upon a number of factors including seasonality, menu changes, weather patterns, among others. In order to ensure that 20% of edible surplus is donated, there will need to be a continuous baseline for what is edible and what is inedible at any given generator. In order to ensure accurate reporting, CalRecycle should include edible and inedible baseline reporting throughout the year as a requirement for generators to maintain compliance with the regulation. Copia's platform enables this by allowing kitchens to track both edible and inedible food on a daily basis, which not only unlocks our food waste prevention analytics to help the business' bottom line, but also provide a realtime baseline for what percentage of food waste is edible, and what percentage of edible food waste is donated.</p>	<p>the proposed recordkeeping requirements would be overly burdensome for commercial edible food generators and would also increase their record keeping costs significantly.</p>
3047	Smith, B., Kern County	<p>The process of comparing any new technology to the standard reduction of emissions of 0.30 MTCO₂e/short ton organic waste appears to restrict comparison of technologies, which target a subset of mixed organic waste. The emission reduction goal for a new technology may not be met due to organic fraction emission factor differences. Since the composting reduction study assumes a certain organic waste mix of food, grass and other organics, a technology comparison that proposes a targeted organic waste type could be beneficial, cost effective and ideal in certain areas but would be eliminated due to not achieving emissions reduction at or above the prescribed aggregate metric. Recommendation: Construct language to allow the State more flexibility for new tech no logy consideration.</p>	<p>Several commenters suggested providing more flexibility to consider new technologies that target diversion of source-separated organic materials that do not compost well such as carpet or lumber, and that have a lower methane emissions reduction potential than mixed organic waste decaying in a landfill. The point of utilizing the greenhouse gas reductions associated with composting as a threshold was not to incentive composting, but rather to set a reasonable threshold for ensuring that the regulation incentivizes the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 and the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO₂e per short ton organic waste was set to ensure emission reductions for any new technology are comparable to the emission reductions necessary to achieve the strategy's emission reduction goal of 4 MMTCO₂e for this sector.</p>
3048	Smith, B., Kern County	<p>Standardizing the color of carts is not necessary since programs throughout the State will not be standardized. Material acceptance can/will be different (paper in blue, paper in green, food waste in green, food waste in yellow, food waste in gray going to a high organics diversion facility, plastics in blue, plastics in gray) and the handling of materials is dynamic and continually evolving. If we can agree that markets change and there are nuances among jurisdictional programs, the benefits of standardizing colors are marginalized and ultimately can create confusion for relocating residents. Other measures within the proposed regulations (labels and public education) should be the foci to affect uniformity. For example, when moving a residence or business from the bay area to Los Angeles, the Public would know to rely on the labels for instruction on what to place in each cart; there would be no potentially incorrect preconceived notions of what items should belong in each cart. Recommendation: keep the various cart/container options but eliminate color stipulations.</p>	<p>The collection container uniformity required by this and subsequent sections is necessary to respond to stakeholder feedback, enhance consumer education about organic waste recycling, reduce contamination, and maintain the highest degree of recoverability for source separated organic wastes. This will enhance the education of generators regardless of their location in California. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to place organic waste into and thus will result in less contamination and maximize organic waste recovery. See statement of purpose and necessity for Article 3 and for Section 18984.1 -18984.7.</p>
3049	Smith, B., Kern County	<p>There are many reasons for consideration in modifying or eliminating the process of cart inspections. The process of inspection can/will create public confrontation scenarios that could lead to health and safety related incidents. If physical altercations occur between inspectors and residents, public perception of such</p>	<p>CalRecycle has determined it is necessary to monitor container contamination on the front end of the solid waste collection and processing chain in order to ensure diversion of organic waste will achieve the targets set in statute. The regulations do not require jurisdictions to impose monetary fines and instead provide notice when container contamination is evident.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>incidents can impact future inspections. The public can question the need of the inspection program then target local governments, which will acquiesce and defer to the State.</p> <p>Additionally, this punitive process potentially has no favorable outcome, either a resident is compliant, by which there is minimal satisfaction given expectations or a resident is not compliant, monitored, educated/admonished and then possibly fined. This process potentially leads to less recycling since it may be favorable for residents to prevent scrutiny/punishment by using the refuse cart exclusively. Since the inspection process is not "standardized" regarding number of checks on each route, there is a concern on regulatory oversight and evolving demands over time. Much like inspections for hazardous waste at solid waste facilities, load check programs differ throughout the State. Some programs include one load check per day while others include a commitment of 250 hours per month or up to 25 load checks per day. Load checks do not prevent all loads of hazardous waste entering landfills and similarly cart checks will not prevent all contamination.</p> <p>Efforts for Statewide collection standardization will be a challenge since acceptance criteria for each collection option can be different among jurisdictions per regional processing differences. Residuals will always be a part of the recycling/composting process and the scope of materials comprising residuals will differ over time.</p> <p>If there is any contamination, processing facilities will remove that contamination or the result will be unusable product. In as much as a zero contamination level will never be achieved, all processing facilities will have processes and systems to remove the contamination. If that has to occur regardless of the amount, then why place a potentially disproportionate effort towards zero contamination? The cost-benefit is not favorable.</p> <p>Regarding punitive actions specifically, please also note that while the draft legislation grants local jurisdictions the power and ability to establish oversight and, when necessary, fines in this process, each jurisdiction must pass this ordinance, independently. There is, however, no stipulation in the draft legislation for jurisdictions wherein the proposed ordinance fails to be passed due to voters overturning the proposed ordinance. This will result in a conflict between draft legislation and the feasibility of a jurisdiction to comply.</p> <p>Recommendation: Allow jurisdictions to deal with contamination issues locally based on need. Market forces can drive more oversight; however, as we have seen, contamination levels alone do not determine marketability. Alternatively, setting contamination limits, oversight and fines would need to be addressed and legislation passed on a State level with jurisdictions being made responsible for handling oversight and enforcement.</p>	
3050	Smith, B., Kern County	The census bureau uses at least 500 persons per square mile as denoting a potential urbanized area. Raising the density threshold can validate jurisdictions implementing cost effective collection services and including a second variable of	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these

Comment Number	Received From	Question/Comment	Response(s)
		<p>organics generation/disposal, will enable the State to improve evaluation of waiver requests by including need.</p> <p>Draft regulations allow for low population waivers for jurisdictions with populations less than 5,000 people and less than 5000 tons of solid waste in 2014. Population densities for jurisdictions with less than 5,000 people are typically much greater than 500 ppsm, thus there should be consideration in increasing the viable population density for waiver consideration. Additionally, low population areas, in our particular case, are typically in arid areas of the state. Areas with 100 - 500 ppsm in remote, arid areas would generate a small amount of organic waste in residential areas. Low-density areas also contain large parcels, thus much of the generated organic waste in these areas are currently handled on site.</p> <p>Recommendation: Increase low population waivers threshold to either increase to 250 - 500 persons per square mile or modify language to include "for census tracts located in unincorporated portions of the county with low population density (50 - 500 ppsm) or low organics generation ... "</p>	<p>changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383’s organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
3051	Smith, B., Kern County	<p>Growth rates in sparse unincorporated areas are typically low and even in cases of significant growth, on a percentage basis, would still equate to an overall low density. In cases of anticipated growth prospects in unincorporated areas, solid waste services are addressed during the LAFCo/Municipal Service Review process. This would help ensure review of solid waste/recycling collection and handling services moving forward.</p> <p>Recommendation: Increase the valid waiver/exemption time to at least five years or allow for 2-year re-evaluation/approval processes to be extremely efficient and user-friendly.</p>	
3052	Smith, B., Kern County	<p>As documented in State SCLP studies, the bulk of the compostable materials capacity is in the San Joaquin Valley. Given that proposed regulations prohibit a jurisdiction from limiting out-of-jurisdiction organic waste, disposal tonnages will increase substantially for jurisdictions where composting facilities are located. Per AB 901 regulations, solid waste disposal from compost facilities (including residuals from the compost process) shall be appropriated to the jurisdiction of facility location. Even though there are proactive provisions within the proposed regulations to control contamination, the significant amounts of material handled by composting facilities will inevitably contain contamination in the 5 - 20% range. Additionally, as quality standards drive for more effective contamination separation, the affinity for increased residual disposal may continue. There are also no provisions or limitations, other than quality standards and permitted tonnage for a solid waste facility, to reject imported organic waste. Note that this would impact or question every CEQA process ever done particular to each facility with organics handling capabilities.</p> <p>Recommendation: Allow jurisdictions disposal modification opportunities to off-set increased disposal due to compost facility and organic waste processing residuals. Add language that would allow a solid waste facility additional reasoning to control the acceptance of imported organic waste.</p>	<p>Commenter is requesting disposal modification opportunities which are beyond the scope of this rulemaking and instead relevant to AB 939 oversight. In addition, nothing in the regulatory text would limit the application of appropriate standards to imported waste. Section 189901 (c) (1) provides that this section does not require a solid waste facility or operation to accept organic waste that does not meet the quality standards established by the solid waste facility or operation.</p>

Comment Number	Received From	Question/Comment	Response(s)
3053	Smith, B., Kern County	<p>The following comment is in regards to AB 901 /939 jurisdictional disposal accounting: Recommendation: Should biosolids be deemed not suitable for additional processing or recovery, we recommend consideration for these unacceptable biosolids to qualify for annual disposal modification .</p>	<p>Comment is not relevant to the proposed regulations and is instead directed at AB 901/939 compliance.</p>
3054	Smith, B., Kern County	<p>In creating a guaranteed market for compost, it will be extremely difficult to predict the effects on the overall market. Since much of the material will now be earmarked and more composting will take place, we cannot ascertain market pricing and end-use waste-derived product quality may decrease. With drought conditions, movement towards more drought tolerant landscaping, artificial grass and water conservation efforts, we can expect the organic waste stream to moderate over time. This will put additional complexity on markets that may not be addressed in a timely manner through current re-evaluation language. Also, procurement protocol based on population without considering generation would not be equitable for jurisdictions with low-organic waste generation. Recommendation: To either remove the procurement requirement to maintain the free market system or take a more measured approach with more flexibility added on purchasing levels and re-evaluation opportunities.</p>	<p>CalRecycle appreciates the complexity of predicting markets shifts once the requirements of SB 1383 are fully implemented. With that exact sentiment, we have deemed it important to ensure robust markets for recovered organic waste products by requiring local jurisdictions to procure and use those products. Public sector procurement will become even more important if product quality is impacted by poor program implementation, evolving waste streams, or other climate-induced impacts on organic waste generation. CalRecycle disagrees with revising the population-based procurement target. The current approach relies on publicly available population data from the Department of Finance (DOF) to calculate a jurisdiction’s annual recovered organic waste product procurement target. In contrast, the comment does not recommend a methodology or data sources for their suggestions therefore any such approach would be subject to interpretation and would not be based on a public database.</p>
3055	Smith, B., Kern County	<p>Imposing penalties on non-profits that fail to keep records regarding pounds of edible food collected and transported per month and number of meals served to the under privileged would seem would seem immoral within the context of needing information for food recovery performance. A welcome issue would be that edible food collection increases such that the food cannot be distributed/serviced in a timely manner. This organic material will become an organic waste, if generation is higher than demand. When generation/processing is higher than demand, edible food will become hard to handle organic waste due to packaging and protein-content issues. Food Recovery Organizations have supplied food to the under privileged for some time now and many non-qualifying restaurants and bakeries currently donate food but directly to the homeless. Organizational listings and assuring participating qualified generators and food recovery organizations are monitored should be sufficient. Markets will dictate since qualified generators desire to work with properly run and effective food recovery organizations. Recommendation: Remove any penalties on food recovery organizations.</p>	<p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d). A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p>

Comment Number	Received From	Question/Comment	Response(s)
3056	Smith, B., Kern County	<p>Section 20700.5 Implementing this requirement arbitrarily without utilizing current landfill gas monitoring practices may not be prudent. Landfill gas programs already include surface emission monitoring and gas collection systems are under vacuum. Adding additional emission control measures at landfills would theoretically change the emissions reduction model based on the State's empirical-offset results regarding additional cover and should impact comparisons to composting and other proposed new technologies. This proposal can also initiate detrimental effects on groundwater by forcing landfill gas to migrate down towards aquifers. Another concern that needs consideration is the impact this will have on the existing landfill capacity. Increasing the required cover will have a direct impact on the lifespan of the landfill. While the overall goal is to move toward a "Zero Waste" principal, it should be recognized that these changes will not occur overnight. With the reduction in new landfills being permitted to be sited within the State, consideration must be given to the impacts to the projected lifespans of the existing landfills. Will early closure of landfills due to loss of capacity result in additional landfills (generally frowned upon) needing to be constructed? Will increased disposal costs due to loss of capacity in existing landfills result in the waste stream being sent out-of-state where GHG standards are not as strict? Will this regulation result in a net decrease in GHG, or simply add additional costs to customers for disposal outside of the regulated area?</p> <p>Recommendation: Add a provision to include an empirically based verification of need. If landfill gas is quantified at a certain level (x) during surface monitoring inspections, sufficient compacted earthen material shall be placed on surfaces of the fill to limit gas emissions to non-quantifiable level (x). Quantifiable level is based on the monitoring technologies used and reliability of results.</p> <p>In summation, adding language to add more flexibility will give us a better chance of success by targeting effectively while controlling disruption of current efforts and public perception. We also believe that the prescriptive and punitive bias written into the proposed regulations undermines a preferred holistic approach to control organic waste emissions. Regulatory-driven behavior of participants will differ. A natural inclination is for jurisdictions is to restrict lawns on new development (occurring now), encourage residents to renovate landscaping and replace/minimize lawns, use artificial grass and basically limit organics generation. This would appear as a win-win-win, decreased organics waste generation/handling, water conservation, and less maintenance costs for esidents and businesses. Implementing drought-tolerant landscaping with no grass lawns can impact local standardized collection since green carts would most likely not be required in new development areas. Las Vegas has implemented such programs. Are we also considering the photosynthesis rates that are currently taking place and will be reduced if regulations disrupt moving forward? Will we create a vast infrastructure for organic waste feed stocks that may moderate over time? Will water rates to consumers increase significantly because of less demand, which occurred during the</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>

Comment Number	Received From	Question/Comment	Response(s)
		recent drought? As you are aware, this is a balancing act, thus we recommend more flexibility to allow all of us to be more nimble to comply according to local needs with the constantly evolving markets, generation rates and waste streams.	
6058	Smith, B., Kern County	On behalf of the governing jurisdiction(s), business enterprises, and the citizens of Kern County, this Committee has found that the SB 1383 regulations will result in hardships on all parties related to the upfront cost, the competitive viability of organic end use products, increased monitoring and reporting, cross-jurisdictional contamination, and the general intrusive nature that will be placed upon our businesses and citizens.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6059	Smith, B., Kern County	This committee is concerned that the overall nature of this Senate Bill has been derived from a theoretical model that has not been vetted in the real world and will not have a successful practical application and the jurisdictions, businesses, and citizens will be left with the fallout.	Comment noted. The commenter is expressing an opinion regarding the authorizing statute rather than the regulations or regulatory process.
6060	Smith, B., Kern County	The Kern County Solid Waste Management Advisory Committee and Local Task Force, in good faith; cannot support SB 1383, as presented.	Comment noted. The commenter is expressing an opinion regarding the authorizing statute rather than the regulations or regulatory process.
6061	Smith, B., Kern County	For these reasons, we urge you to reconsider many of the proposed components of SB 1383 and take a more flexible approach on timelines, specified scientific parameters, and the penal nature of the bill. It is our deepest hope that many of the submitted comments are adhered to and those facets of the bill are changed accordingly. .	The timelines are specified in statute and are beyond the authority of CalRecycle to change.
6406	Sommer, W., StopWaste	Enforcement: The current regulations codify much of our internal enforcement protocol, which is continually being refined for efficiency and effectiveness. Codifying internal processes makes them much harder to change and adapt based on what is learned from implementation in the field. Jurisdictions are expected to enforce very specific requirements, such as whether the bins inside a business are properly color coded, labeled and located in all customer areas that, in our experience, are unrealistic to implement due to the difficulty of gaining access and the cost that would be needed to spend extensive time for each inspection.	CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.

Comment Number	Received From	Question/Comment	Response(s)
		<p>Inspecting at the hauler-serviced bins, often outside in a publicly accessible area, is where the rubber meets the road in showing the results of employee sorting behavior. A generator successfully sorting organics as demonstrated at the hauler-serviced bin should not be penalized for not complying with color and labeling requirements for bins inside the business.</p>	
6407	Sommer, W., StopWaste	<p>Food Waste Prevention: Moving upstream to prevent food from going to waste avoids GHG emissions across the food cycle from production to consumption, in addition to avoiding landfill emissions when food goes to waste. Collective research shows that food waste prevention is the most impactful and least resource intensive strategy to reduce GHG emissions from food. For example, the EPA's Waste Reduction Model (WARM) demonstrates that source-reducing wasted food prevents 3.66 MTCO2E per ton of food. Bay Area Air Quality Management District's consumption-based emissions inventory shows an average two tons of CO2e avoided per ton of food waste prevented.</p> <p>We recommend that CalRecycle provide an exemption from food donation that recognizes and rewards the upstream efforts of generators implementing food waste prevention practices.</p>	<p>SB 1383's statutory requirement is to recover 20% of currently disposed edible food for human consumption by 2025. The statute does not include any requirement for California to achieve a food waste prevention target. As a result, CalRecycle will not require commercial edible food generators or jurisdictions to prevent or source reduce the amount of edible food they generate. CalRecycle does however recognize that some commercial edible food generators could have types of edible food available for food recovery that are not desired by food recovery organizations or services. One example would be a generator having significant quantities of food that does not meet the nutrition standards of food recovery organizations or food recovery services. To address this issue, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide commercial edible food generators with information about the actions that commercial edible food generators can take to prevent the creation of food waste.</p> <p>To clarify, this is not a requirement for commercial edible food generators or jurisdictions to source reduce the amount of surplus edible food they generate. This is an education requirement intended to help generators learn how they can prevent the creation of food waste. Providing this education is critical to help generators that struggle to find outlets for their currently disposed edible food comply with SB 1383's commercial edible food generator requirements, as all tier one and tier two commercial edible food generators are still required to comply.</p> <p>Regarding the comment that CalRecycle provide an exemption from food donation that recognizes and rewards the upstream efforts of generators implementing food waste prevention practices. Adding a section for commercial edible food generator exemptions and de-minimis waivers to the regulatory text was not necessary. Adding a section for exemptions and de-minimis waivers was not necessary because the regulations are already structured so that many food facilities and food service establishments are exempt from compliance due to the smaller amounts of edible food they typically dispose. Only the entities identified as tier one and tier two commercial edible food generators are required to comply. Every other food facility or food service establishment that is not a tier one or tier two commercial edible food generator is exempt from SB 1383's regulations.</p> <p>CalRecycle recognizes, however, that some commercial edible food generators could experience extraordinary circumstances that could make compliance impracticable. To address this issue, CalRecycle revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of Section 18991.3 extraordinary circumstances are specified as (1) a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. And (2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.</p>

Comment Number	Received From	Question/Comment	Response(s)
6408	Sommer, W., StopWaste	<p>Edible Food Recovery: We urge CalRecycle to more directly address the issue of “donation dumping” by generators on food recovery organizations. Although the proposed regulations allow food recovery organizations to reject certain types of food, in practice organizations are unlikely to reject donations out of concern that that they will not receive future donations. In addition, if an organization is accepting large quantities of food in one delivery, it is not possible to review the contents and reject part of the load. Adding types of food accepted to the list of food recovery organizations, as well as tracking the types of food received by food recovery organizations would reduce the potential for donation dumping. In addition, providing a statewide platform for generators and food recovery organizations to report directly to the state would reduce the reporting burden on jurisdictions.</p>	<p>Regarding the comment about donation dumping, CalRecycle recognizes that donation dumping occurs. The regulations require commercial edible food generators to have a contract or written agreement with a food recovery organization or a food recovery service. If a food recovery organization or service is concerned that donation dumping could occur, then they should include language in their contract or written agreement to protect themselves against donation dumping. If a commercial edible food generator repeatedly donation dumps, there is nothing in SB 1383’s regulations prohibiting a food recovery organization or service from terminating their relationship with that particular generator.</p> <p>In addition, CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, commercial edible food generators, and jurisdictions. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and services from donation dumping and unexpected donations. We again would like to reiterate that the model food recovery agreement is only a template and is intended to be customized based on the needs of food recovery groups and commercial edible food generators.</p> <p>Regarding the commenter’s suggestion to add the types of food accepted to the list of food recovery organizations. CalRecycle has added a requirement to section 18985.2 in response to this comment and other comments that raised a similar concern. The new language requires the following to also be included with the list of food recovery organizations and food recovery services that the jurisdiction develops and maintains - "an indication of the types of food that the food recovery service or organization can accept for food recovery."</p> <p>The list of food recovery organizations and services is intended to serve as a tool to help generators find appropriate food recovery organizations and services to have a contract or written agreement with for food recovery. This addition was necessary to help make the list a more useful tool for commercial edible food generators. Listing the types of food the organization can accept will help generators determine what food recovery organizations or services they could potentially establish a contract or written agreement with. This addition to the regulatory text was also necessary to help protect food recovery organizations and food recovery services from receiving food that they are not equipped to handle.</p> <p>Regarding the comment about providing a platform where generators could report directly to CalRecycle, CalRecycle would like to clarify that commercial edible food generators do not have any reporting requirements. Commercial edible food generators have recordkeeping requirements. Therefore, a statewide reporting platform for commercial edible food generators to report directly to that state is not necessary. In addition, a statewide reporting platform where food recovery services and organizations would report directly to the state rather than to jurisdictions would severely reduce each jurisdiction’s ability to assess the effectiveness of their food recovery program and identify if improvements need to be made. Furthermore, the data that is reported directly to the jurisdiction is critical for helping the jurisdiction better understand the food recovery organizations and services making the greatest impact in their jurisdiction. This data can be used to help jurisdictions make decisions about food recovery organizations and services to promote and potentially direct funds to.</p>

Comment Number	Received From	Question/Comment	Response(s)
6409	Sommer, W., StopWaste	A more effective and easily enforced market-building tool is to require jurisdictions to enforce the Water Efficient Landscape Ordinance, which requires compost use in landscape construction. Compliance can be enforced through existing required permit documentation and jurisdictions' reports to the CA Department of Water Resources. This would be similar to the approach in Article 8: CALGreen Building Standards, which directs jurisdictions to require compliance with relevant measures in CALGreen, and could easily approximate the procurement targets set in the current draft. For example, the City of Oakland would be required to procure 43,392 cubic yards of compost (17,357 tons), which would cost over \$1M in materials. In 2017, the City of Oakland procured 950 CY compost. Through WELO enforcement in 2017, a total of 38,552 CY of compost (15,421 tons) was specified.	The proposed regulations have been changed to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to require compliance with MWELO. There are specific aspects of MWELO that relate to the use of compost or mulch on landscaping and construction projects. These already adopted requirements provide a potential market for recovered organic waste products, like other ordinances jurisdictions adopt, this should already be enforced by jurisdictions. The MWELO provisions that are pertinent to reducing the disposal of organic waste are included in the regulations so that CalRecycle can ensure that those provisions are enforced. See also response to comment (refer to comment justification enforcement). The Procurement requirements are designed to further reduce organic waste disposal by increasing the procurement of recovered organic waste products. Enforcing laws that were already adopted to facilitate increased procurement is a method of ensuring that the organic waste products that should already be procured are procured. In other words, enforcing MWELO is a method of ensuring that minimum procurement amounts required by entities identified by MWELO prior to the adoption of SB 1383 are met. The proposed procurement requirements are separate and are designed to increase procurement of organic waste products in order to meet the statutory targets of SB 1383.
6410	Sommer, W., StopWaste	Infrastructure Capacity Planning: This information should be gathered at the state level by interviewing composting facilities throughout the state. Counties do not have access to the information required by SB 1383 (or AB 876). It is impossible for a county to know of all the other counties that are sending material to the same composting facility. Moreover, counties do not have contracts directly with facilities; more commonly this is done through haulers that have contracts with cities. Those agreements rarely specify a particular composting facility.	The purpose of this section is to require counties, in coordination with cities 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 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 recovery organic waste. This will help increase organic waste recovery in California.
2061	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	Section 18982. Definitions. There is no definition of "Container". It would be helpful to add one to clarify whether "container" includes bins and wheeled carts. The definition should also refer to whether or not this applies to all containers: residential, multi-family and commercial. Does it also include roll off boxes? (For example, a roll off of cardboard from a supermarket or a special event.)	"Containers" is a common term used to describe bins, carts, dumpsters, carts, roll-offs, debris bins, etc., and related and is for all containers, including residential and commercial.
2062	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	Section 18982. Definitions. "Yellow Container" is the only container definition that still says the entire container must be yellow (lid and body). Is this an oversight or are all other containers required to have colored lids only, but the yellow (presumably food scrap) container is required to be entirely yellow. This is important particularly with regard to commercial and multi-family carts and bins.	CalRecycle responded to stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic. CalRecycle has revised the definitions of the containers to be consistent with each other.

Comment Number	Received From	Question/Comment	Response(s)
2063	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	Section 18982. Definitions. The definitions of “Blue Container”, “Green Container” and “Gray Container” are all slightly different. It would be helpful to conform all three plus the definition of “yellow container”.	CalRecycle has revised the definitions of the containers to be consistent with each other. CalRecycle responded to stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic.
2064	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	Section 18982. Definitions. While there is a definition for “High Diversion Organic Waste Processing Facility” there is no parallel definition that we can find in the Public Resources Code (PRC) for a High Diversion Recyclable Materials Processing Facility (aka a “Dirty MRF”). This would be the diversion level required for recyclable materials (glass, cans, plastics, paper, cardboard, etc.). While SB 1383 is focused on organics diversion, this “hole” in the PRC is a large loophole that could defeat the goals and purposes of AB 341. In writing local ordinances, the standards for use of a “dirty MRF”, if allowed, must be spelled out clearly and cover both recyclable materials and organics. Please clarify the level of diversion required for such a dirty MRF with regard to recyclable materials. We encourage you to make the requirement very high, in keeping with what a source-separated or “single stream” recycling program can achieve.	Comment noted. SB 1383 focuses on mandatory organics recycling. A dirty MRF would be required to meet the requirements of Title 14, Sections 17409.5.1 - 17409.5.11 for the purposes of organic waste recovery. SB 1383 does not establish diversion requirements for non-organic recyclables.
2065	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	Sections 18984.1 “Three Container System” and 18984.2 “Two Container System”. A clarification in these sections would be helpful to confirm these apply to all generators: residential, commercial, and multi-family. A reader might assume they only apply to residential.	CalRecycle revised Section 18984 in response to this comment to further clarify that a jurisdiction can employ any combination of acceptable collection services, even though the regulations already allow a jurisdiction to comply with a flexible collection system.
2066	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	Section 18984.1 (a) (6) A and B: Since CalRecycle has prescribed the specific color for all materials except food scraps, if a jurisdiction is operating a source-separated food scrap program, it would be helpful to standardize colors by saying that source-separated food scraps must be in a yellow container (or a yellow-lidded container). As you are aware, food scraps can be diverted as bioengineered feedstock, in which case they must be segregated from green waste and wood. It appears the goal of the regulations is to ultimately standardize colors statewide so when residents, businesses and customers move from city to city the color for the container for each material type is the same. This will greatly assist with public education, especially regarding food scraps diversion.	CalRecycle has revised the definitions of the containers to be consistent with each other. CalRecycle responded to stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic.
2067	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	Section 18984.5 “Container Contamination Minimization”. The draft regulations now contain no minimum level for what constitutes “Contamination”. A literal reading of the definition of “Container Contamination” in Section 18982 (“Definitions”) results in zero tolerance for any contamination in a container. That is an impossible standard to enforce at the local level via an ordinance. Likewise, without a specific percentage that constitutes contamination, a city cannot be expected to levy fines or penalties for violations, as required in Section 18997.2. Evidence is needed to prove that a violation has taken place. Therefore, a specific percentage of what constitutes contamination must be written into local mandatory	During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews.

Comment Number	Received From	Question/Comment	Response(s)
		<p>ordinances. It would be best if CalRecycle set the standard and applied it uniformly statewide. This would assist in public education and standardization of what is expected from city to city (especially for large restaurant and supermarket chains that have locations throughout the state). If CalRecycle fails to include a specific percentage contamination, then each jurisdiction will be forced to promulgate their own standard. This will lead to a hodge-podge of disparate requirements throughout the state. It is our recommendation that CalRecycle establish an achievable yet reasonable standard, somewhere between 5-15%.</p>	<p>These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
2068	St. John, Cerene; Page 1 of 3 Law Office of Cerene St. John	<p>I would also like to bring to your attention that there are already two contracts awarded by the City Councils of Tustin and Laguna Niguel (in October 2018 and November 2018 respectively) that fully incorporate the requirements and provisions of the draft SB 1383 regulations. Although it required a great deal of original and create drafting of the contracts, including performance standards, auditing and reporting requirements, both City Councils recognized the importance of the new law. Both contracts are now effective and program implementation, as required by SB 1383, is proceeding.</p>	<p>A change to the regulatory text is not necessary because the comment is not requesting any specific change but rather is noting actions that two cities have taken in response to SB 1383.</p>
6365	Steuer, M., City of Irvine	<p>In addition to allowing more time for processing capacity to develop, we encourage the state to commit financial resources (e.g., grant and payment programs) and utilize fiscal mechanisms (e.g., tax incentive programs) to encourage public and private investment in such infrastructure; these commitments should be memorialized and calendared within the regulations.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>

Comment Number	Received From	Question/Comment	Response(s)
6366	Steuer, M., City of Irvine	Deferral of Enforcement and Penalties: While we appreciate that the regulations allow for violation corrections prior to imposition of fines, we request as a matter of fairness that implementation of the compliance and penalty provisions on jurisdictions be deferred until such time when adequate local processing capacity is achieved in all regions of California including the Los Angeles - Orange County region.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
6367	Steuer, M., City of Irvine	Exemption of Specified Materials from Organics Classification: We request that some materials be redefined or reclassified under the regulations. These include removing "building insulation and panels" from the definition of paper products, and exempting from the regulations certain organics within quarantine zones.	CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.
6368	Steuer, M., City of Irvine	Education and Outreach: To contain costs associated with preparation of public education materials, we request the provision requiring multi-lingual public education materials be changed to allow for compliance through 1) a short statement on each education piece (in the applicable language) that directs the non-English speaking person to the jurisdiction's website for materials in other languages, and/or 2) allows for graphic-rich public education materials as an option.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
6334	Stewart, J., City of Bellflower	As currently drafted, the legislation is expected to impose a significant jurisdictional burden on program enforcement and recordkeeping, diverting already limited funds and resources. For example, Section 30.5 regarding Container Contamination Minimization states that upon finding prohibited contaminants in a container the jurisdiction or its designee will contact the generator or provide written notice to the generator. It is not feasible to determine and identify individual generators that contaminate a route unless containers are checked individually. Our residential curbside program utilizes automated side loading vehicles and covered bins. Adhering to the proposed legislation would require route drivers to physically examine hundreds of containers on each route on a daily basis and additional staffing resources to manage the processing of notices.	Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.

Comment Number	Received From	Question/Comment	Response(s)
			<p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6335	Stewart, J., City of Bellflower	The proposed penalty structure for generators of organic waste, specifically residents and small businesses, is expected to disproportionately affect many of our low-income residents located within the community.	A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.
6336	Stewart, J., City of Bellflower	The City respectfully requests more flexibility in the regulations as currently drafted as well as more consideration on the burden that compliance with the proposed regulations will impose on jurisdictions.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving

Comment Number	Received From	Question/Comment	Response(s)
			significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
21	Tai, N, Greenlynx	<p>It appears that lumber has been removed from this rulemaking altogether in any meaningful way, except as part of the definition of #46 "Organic Waste" and as acceptable in the "blue bin". Are you planning on dealing with the actual recovery of lumber in another rule or format? Deferring to Cal Green Code does not address the issue of recycling or reuse of lumber because it is not currently recycled in any jurisdiction - according to the CalRecycle definition of "recycling", except for the areas that are able to sell it as mulch.</p> <p>There is nothing under Article 8 requiring the recycling of lumber, which by your definition #46 is an organic waste. The requirement in CalGreen Code to recycle 65% of construction waste can easily be achieved with concrete alone on commercial projects and many residential projects, thus wood will not need to be recycled to meet this requirement in most cases.</p>	Wood/lumber is subject to organic waste collection requirements for commercial and residential generators, further the regulations require jurisdictions to enforce CALGreen standards for the recovery of construction and demolition waste which includes wood waste. CalRecycle disagrees that wood is not addressed in a consequential manner.
22	Tai, N, Greenlynx	Recycling is not waste prevention because only waste can be recycled. One must generate waste in order to recycle the waste. Therefore, if you are recycling, you have already generate waste. Although recycling is a very good thing, ideally it would be better to not generate any waste.	Thank you for the comment. The comment is not specific to any draft language released during the first comment period. SB 1383 is not specific to waste reduction - it is designed for organic waste diversion.
6369	Tenorio, T., Community Action Agency of Butte County, Inc.	Meeting the goals in SB 1383 will create significant burdens on food recovery organizations, as the pressure to take more food will occur with tightening mandatory commercial organics recycling costs requirements from AB 1826 (Chesbro, 2014) that will raise costs for food banks. We urge inclusion, in Article 13, of an impact assessment on food recovery organizations to understand this issue and provide information to jurisdictions and other stakeholders about how to respond to any challenges raised. For example, food banks will be wondering: Is the additional food recovery estimated from this equal to, less than, or more than the additional cost on food banks to meet the mandated requirements?	The regulations specify in Section 18990.2 that nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible generator. Food recovery organizations and services are not mandated to recover food nor are they mandated to establish contracts or written agreements with commercial edible food generators pursuant to Section 18991.3(b). If the costs to recover additional food are too great, then food recovery organizations and services do not have to recover additional food. Adding a requirement to Article 13 requiring jurisdictions to perform an impact assessment on food recovery organizations and services would be overly burdensome for jurisdictions as they are already required to assess edible food recovery capacity and increase capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs.
6370	Tenorio, T., Community Action Agency of Butte County, Inc.	We further urge CalRecycle to encourage jurisdictions to develop funding mechanisms that offset higher mandatory commercial organics recycling incurred that emerge in new partnerships due to recovery activities necessary to meet the 20% diversion goal. These include many possibilities, such as working with generators from which food banks currently do not receive donations that would require de-packaging due to organizational nutrition policies; and working with donors whose offerings have a lower yield of edible food and an accordingly higher percentage of food loss during the recovery process.	<p>CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed.</p> <p>CalRecycle would also like to clarify that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing specifications in their contracts or written agreements with commercial edible food generators. For further clarification, please refer to the FSOR.</p>

Comment Number	Received From	Question/Comment	Response(s)
6371	Tenorio, T., Community Action Agency of Butte County, Inc.	We request that funding mechanisms recognize that, 1) a large share of the costs associated with increasing the capacity for food rescue will be for labor and physical infrastructure costs associated with coordinating the additional food; and 2) recovery activities pursuant to SB 1383’s goal will nearly always augment work already being done with a mixture of existing and new capacity (staff, cold storage, vehicles, fuel and other fixed costs), and therefore funding should not be restricted to incremental pounds of food.	CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included to encourage jurisdictions to establish a sustainable funding source to help cover their program implementation costs. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed. CalRecycle would also like to clarify that nothing in SB 1383’s regulations requires a food recovery organization or service to establish a contract or written agreement with a commercial edible food generator. A food recovery organization or service may wish to consider any costs associated with recovering additional food when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator. CalRecycle would also like to note that nothing in SB 1383’s regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.
6372	Tenorio, T., Community Action Agency of Butte County, Inc.	CalRecycle should consider using the nationally established definition of food eligible for donation by the Bill Emerson Good Samaritan Food Donation Act & mirrored in AB 1219 (Eggman, 2017). If this language is not adopted, not only will there be inconsistency with existing practice, but also some food would require additional labeling to allow recovery and donation, placing an additional burden on food banks	In an early draft of the proposed regulations edible food was defined as: “Edible food” means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, “edible food” is not solid waste if it is recovered and not discarded.” Several commenters made the argument that this definition was too restrictive, because it described “recoverable food” not “edible food.” Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters’ concerns about the definition of “edible food” being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following: “Edible food” means food intended for human consumption. (A) For the purposes of this chapter, “edible food” is not solid waste if it is recovered and not discarded. (B) 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. Although the final definition of “edible food” is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities.
6373	Tenorio, T., Community Action Agency of Butte County, Inc.	It is critical that CalRecycle and jurisdictions exempt the ‘nonprofit charitable organizations’ (food banks and their non-profit partners) from fees and penalties related to their own waste incurred during compliance with SB 1383 as long as they are accepting donations with the intention to distribute the food for consumption.	Nothing in SB 1383’s regulations requires a food recovery organization or a food recovery service to accept edible food. Section 18990.2 of the regulations already states, “(d) Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator.” If a food recovery organization or service cannot safely

Comment Number	Received From	Question/Comment	Response(s)
		<p>Below we ask for a significant overhaul of the role of food recovery organizations in the data reporting regime. Reporting requirements must be re-centered on the generators that must comply with the diversion goal.</p>	<p>collect and distribute food because it is at maximum capacity, then it should not be collecting any more food. In addition, nothing in SB 1383's regulations requires a food recovery organization or service to establish a contract or written agreement with a commercial edible food generator. A food recovery organization or service may wish to consider any costs relating to their own waste or residual food waste, when deciding whether or not to establish a contract or written agreement with a commercial edible food generator, thus subjecting them to increased costs associated with their own waste.</p> <p>With regard to the comment that reporting requirements be placed on generators, it is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.</p>
6374	Tenorio, T., Community Action Agency of Butte County, Inc.	<p>We caution CalRecycle on the potential for SB 1383 regulations to create unintended consequences that could threaten the ability of food recovery organizations – charity non-profits that feed people experiencing hunger – to access sufficient food and nutrition resources. We ask that CalRecycle emphasize the EPA's Food Recovery Hierarchy pyramid, which highlights "Feed Hungry People – Donate extra food to food banks, soup kitchens, and shelters" as the primary strategy after "Source Reduction."</p>	<p>A change to the regulatory text was not necessary for the following reasons. The first reason is that the U.S. EPA Food Recovery Hierarchy identifies food waste diversion practices that extend beyond the scope of SB 1383's edible food recovery statutory goal. Specifically, the U.S. EPA Food Recovery Hierarchy identifies source reduction of food waste as the most preferred diversion strategy and feeding animals as a key food waste diversion practice as well. Both source reduction of food waste and diverting food waste to feed animals extend beyond the scope of SB 1383's edible food recovery statutory goal and therefore it would not be appropriate to reference the U.S. EPA Food Recovery Hierarchy in SB 1383's edible food recovery regulations.</p> <p>In addition, most food banks, soup kitchens, and shelters in California are non-profit food recovery organizations. SB 1383's statute does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.</p>
1186	Thompson, David, City of Los Angeles, Dept. of Building & Safety, Local Enforcement Agency Program	<p>a. Section 18984 identifies the Solid Waste Local Enforcement Agency as the designee to allow less frequent collection whereas Section 17331 designates the Local Health Officer. This proposed section of the regulations conflicts with the existing section that it cites. In the spirit of AB 1220, the LEA does not believe that having dual governing agencies regulating the collection frequency is efficient or necessary. The Local Health Officer through the Health Departments is doing an adequate job of monitoring compliance.</p>	<p>CalRecycle has revised this section in response to comments. The section was modified to better clarify the LEAs role and responsibility as it pertains to this section. Section 17331 allows the local health officer to grant a waiver for the storage of waste for less than seven days. Whereas, Section 18984.11 (a)(3) (A)(1) will allow the jurisdiction, in consultation with the LEA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the LEA in this section gives them the opportunity to provide input before a jurisdiction grants a waiver. The jurisdiction or authorized hauler would demonstrate to the LEA that the longer storage of waste is done in a manner that would not cause the receiving solid waste facility or operation to be in violation of any applicable state minimum standards. It would be the jurisdiction's responsibility to (among other things) review and consider the franchise hauling agreements, city/county code, the public health and safety, and the LEAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.</p>

Comment Number	Received From	Question/Comment	Response(s)
1187	Thompson, David, City of Los Angeles, Dept. of Building & Safety, Local Enforcement Agency Program	Section 18984.11 b. The LEA's jurisdiction is in general with permitted solid waste facilities and operations. It does not regulate each individual property for collection frequency. Please clarify the role of the LEA if a property fails to submit the required waiver and does not remove waste as required per regulations, will the LEA be required to enforce this condition? If so, the LEA does not have the resources to conduct these new monitoring activities.	CalRecycle has revised this section in response to comments. The section was modified to better clarify the LEAs role and responsibility as it pertains to this section. Section 17331 allows the local health officer to grant a waiver for the storage of waste for less than seven days. Whereas, Section 18984.11 (a)(3) (A)(1) will allow the jurisdiction, in consultation with the LEA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the LEA in this section gives them the opportunity to provide input before a jurisdiction grants a waiver. The jurisdiction or authorized hauler would demonstrate to the LEA that the longer storage of waste is done in a manner that would not cause the receiving solid waste facility or operation to be in violation of any applicable state minimum standards. It would be the jurisdiction's responsibility to (among other things) review and consider the franchise hauling agreements, city/county code, the public health and safety, and the LEAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.
1188	Thompson, David, City of Los Angeles, Dept. of Building & Safety, Local Enforcement Agency Program	a. In Section 21660.2 (c)(3) states that LEA shall undertake additional measures to increase public notice and to encourage attendance. It goes on to state that the LEA may increase the noticing beyond one (1) mile. If going beyond a mile is "a choice", the use of the word "may", implies that everything less than a mile is a requirement. If this is the intent of the regulation, the LEA strongly opposes the one mile notification requirement. This would be extremely burdensome and costly to the LEA and facility operators, especially in highly dense urban neighborhoods.	CalRecycle has revised Section 21600.2 (c) in response to comments. The "one (1) mile" requirement in Subsection (c)(3) has been deleted and "shall" has been changed to "may," reverting back to the existing regulatory language.
1189	Thompson, David, City of Los Angeles, Dept. of Building & Safety, Local Enforcement Agency Program	b. Please explain how the 1 mile radius was determined for this section.	CalRecycle has revised Section 21600.2 (c) in response to comments. The "one (1) mile" requirement in Subsection (c)(3) has been deleted and "shall" has been changed to "may," reverting back to the existing regulatory language.
1190	Thompson, David, City of Los Angeles, Dept. of Building & Safety, Local Enforcement Agency Program	The purpose of the Short-Lived Climate Pollutants regulatory package was to address the reduction of organic waste methane emissions. Many of these proposed regulations do not appear to address this issue.	As they apply to CalRecycle, the Short-Lived Climate Pollutants requirements are to ensure the diversion of organic waste from landfills as opposed to having specific, quantifiable targets for methane reduction.
3638	Thompson, G., City of Jurupa Valley	Article 3, Section 18984.11 There is no waiver process granted to communities based on median income, or other widely utilized measure of economic means of the community. Lower income communities and the businesses that operate within them are subject to the same compliance procedures and implementation dates as higher income communities. Lower income communities have less discretionary income available to help offset inevitable service cost increases required to ensure compliance.	Numerous stakeholders suggested revisions to expand the number and type of areas eligible for waivers. In response, CalRecycle analyzed numerous alternatives including cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535). CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted and would unacceptably compromise the ability to meet the statutory organic waste diversion targets.
3639	Thompson, G., City of Jurupa Valley	Article 4, Section 18958.1	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.

Comment Number	Received From	Question/Comment	Response(s)
		<p>The direction to provide multi-language outreach efforts for limited English-speaking households creates an increased communication cost burden on minority communities; many of which have relatively more low to moderate-income residents based on recent census tract data. This creates a additional communication cost burden on communities that are relatively less able to absorb these costs. This section does not provide for any type of cost relief mechanism - by way of delayed implementation deadlines or other mechanisms that would mitigate the immediate cost burden to these communities</p>	
3640	Thompson, G., City of Jurupa Valley	<p>Article 16, Section 18997.2 The State is prescribing penalty amounts by which local jurisdictions must levy. This presents a fundamental paradigm shift from local jurisdictions as a neutral service delivery manager of solid waste hauling services to an enforcer of State laws regarding solid waste hauling services. Local jurisdictions are not provided flexibility in administering a fee assessment schedule that is based on the evidence and strategies derived from local officials who know their community dynamic better than the State. Local jurisdiction officials can theoretically develop less harsh penalties to encourage compliance, yet the regulation would not allow them to do so. This approach is not evidence-based, as it prescribes a compliance system without taking local considerations into account. Local jurisdictions should be given flexibility and independence in implementing fee schedules based on local knowledge and familiarity with other successful compliance efforts that the local jurisdiction has implemented.</p>	<p>A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.</p>
3068	Thompson, G., Jurupa Valley	<p>There is no waiver process granted to communities based on median income, or other widely utilized measure of economic means of the community. Lower income communities and the businesses that operate within them are subject to the same compliance procedures and implementation dates as higher income communities. Lower income communities have less discretionary income available to help offset inevitable service costs increases required to ensure compliance.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state. Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
3069	Thompson, G., Jurupa Valley	The direction to provide multi-language outreach efforts for limited English-speaking households creates an increased communication cost burden on minority	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.

Comment Number	Received From	Question/Comment	Response(s)
		<p>communities; many of which have relatively more low to moderate-income residents based on recent tract data. This creates an additional communication cost burden on communities that are relatively less able to absorb these costs. This section does not provide for any type of cost relief mechanism -- by way of delayed implementation deadlines or other mechanisms that would mitigate the immediate cost burden to these communities.</p>	
3070	Thompson, G., Jurupa Valley	<p>The State is prescribing penalty amounts which local jurisdictions must levy. This presents a fundamental paradigm shift from local jurisdictions as a neutral service delivery manager of solid waste hauling services to an enforcer of State laws regarding solid waste hauling services. Local jurisdictions are not provided flexibility in administering a fee assessment schedule that is based on the evidence and strategies derived from local officials who know their community dynamic better than the State. Local jurisdiction officials can theoretically develop less harsh penalties to encourage compliance, yet the regulation would not allow them to do so. This approach is not evidence-based, as it prescribes a compliance system without taking local considerations into account. Local jurisdictions should be given flexibility and independence in implementing fee schedules based on local knowledge and familiarity with other successful compliance efforts that the local jurisdiction has implemented.</p>	<p>A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "substantial additional costs".</p> <p>CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p> <p>However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.</p> <p>Finally, the regulations provide delayed implementation for rural jurisdictions. Several commenters recommended that the regulations phase-in the procurement requirements from high population to low population areas. The delayed implementation for rural areas (low population areas) was added in response to this request.</p>
6001	Thompson, S., Sacramento	<p>Regarding the management of organic materials on State lands, the regs should:</p> <ol style="list-style-type: none"> 1) Garden trimmings and other green waste generated by plant growth on State lands must be mulched or composted onsite, or at the nearest feasible location, and may not under any circumstances be sent to a landfill. 2) Mulch and/or compost used on State lands must be sourced from the results of Rule #1. These materials can be purchased from other sources only if all State sources within a 50-mile radius are exhausted. 	<p>CalRecycle is declining to make this change because the scope of the rulemaking is not intended to cover mandates on where composting must occur and finds that the requirements for procurement adequately address encouraging end uses for landfill diverted material.</p>

Comment Number	Received From	Question/Comment	Response(s)
6002	Thompson, S., Sacramento	Note: A visit to the grounds-keeping building at the park surrounding the Capitol in January 2019 revealed that the State currently violates both the letter and spirit of	Comment noted.

Comment Number	Received From	Question/Comment	Response(s)
		SB 1383 by hauling green waste to the landfill and purchasing commercial mulch and compost by the pallet, in single-use plastic bags.	
4433	Tillotson, T., County of Nevada Department of Public Works	Section 18984.10. Property and Business Owner Responsibilities, this requirement, as it relates to single family residential property owners, will be difficult for jurisdictions to verify, monitor and enforce. Additionally, this section is essentially requiring mandatory collection for all rental properties, which represents about 44% of total housing units in Nevada County. Many rural communities do not have mandatory collection. Due to the topography and climate in Nevada County there are also accessibility issues that could make this requirement problematic. We recommends that this requirement be limited to multifamily property owners (5 or more units), and businesses.	CalRecycle revised Section 18984.10 in response to this comment to clarify that requirements on commercial business owners do not pertain to single family residences. Also note, in the current language, CalRecycle removed 'property owners' from this section.
4434	Tillotson, T., County of Nevada Department of Public Works	Section 18984.12. Waivers and Exemptions Granted by the Department, Nevada County is particularly concerned with the effect SB 1383 will have on our higher elevations customers in Eastern County (above 5,000 feet). Higher elevation customers live in "Bear Country" and currently utilize bear boxes which have serious capacity and siting issues. In the winter months snow creates additional issues with access and available space for bins. Nevada County believes that this is going to create an undue burden for these customers and a potential nuisance related to bears and other wildlife. For that reason Nevada County supports a 5,000 foot elevation exemption.	CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826. As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes. Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. This comment argued that the limited space of locked bear boxes, which this commenter's jurisdiction uses to secure garbage bins, creates a capacity issue. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, nothing prevents the jurisdiction from providing smaller containers that could fit inside bear boxes.
4435	Tillotson, T., County of Nevada Department of Public Works	Section 18992.1. Organic Waste Recycling Capacity Planning, places the responsibility of providing or identifying sufficient organic waste processing capacity on local jurisdictions. However, it is common knowledge that California does not have sufficient infrastructure capacity to handle the amount of organics proposed under this legislation. Infrastructure required to implement these regulations are expected to cost billions and these facilities are difficult to site, and can take between five to ten years to get through the permitting process. This is particularly problematic in rural jurisdictions like Nevada County, which is in a uniquely sensitive zone of the Sierra Nevada mountain range, with many historic sites, mines, sensitive plant and animal species, etc. Additionally, topography, water quality and drainage issues make siting a facility very difficult in this region. The current Solid Waste Division operation employs two County staff. Our facilities include a closed landfill and 3 small transfer stations operated through a franchise agreement. Nevada	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA).

Comment Number	Received From	Question/Comment	Response(s)
		<p>County has neither the space at existing facilities, nor the staff and funding to support an organic waste processing facility. This legislation will result in an onerous unfunded mandate to local jurisdictions and disproportionately shifts the implementation, infrastructure and enforcement cost burden from the Cities and State. to Counties. The timing of this legislation could not be worse, global recycling markets are at an all-time low with an unstable future and labor and hauling costs steadily increasing. Nevada County is currently drafting a resolution in support of a statewide commission on recycling markets (see attached).</p>	<p>CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4436	Tillotson, T., County of Nevada Department of Public Works	<p>4) Section 18993.1. Recovered Organic Waste Product Procurement Target, the county has a green procurement policy and purchases products, including paper, made from recycled content whenever possible. Under this mandate, Nevada County would be required to purchase 7,000 tons of recycled organic waste products per year. Due to the climate and terrain, County facilities utilize xeriscaping so purchasing compost in large quantities is not required or practical. It is unclear what the benefits of purchasing this material would be to the County or how it would be used. This requirement should take into consideration the jurisdictions actual need for such material. Encouraging the use of "recycled" organic material is ok; however, requiring jurisdictions to purchase something we do not need is problematic. Additionally, our hauler Waste Management utilizes a natural gas fleet in Nevada County, however, it is our understanding that only RNG purchased from an instate digestion facility would count toward the purchase of organic products. Rural jurisdictions do not have access to these facilities for the purpose of refilling our vehicles but we should get credit for using a natural gas fleet.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products to provide jurisdictions with even more flexibility to choose product that fit local needs.</p> <p>Regarding the proposal to base the procurement target methodology on "actual need" CalRecycle disagrees. The comments submitted on this lack specific language for quantifying such an approach. Even if the commenter recommended a quantifiable way to determine "actual need", California has over 400 diverse jurisdictions and it would be overly burdensome to account for each jurisdiction's "actual need" and to develop a procurement target and enforcement policy for each one.</p> <p>However, CalRecycle also recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. It can do this by showing that the amount of fuel, electricity, and gas for heating applications procured in the previous year is lower than the procurement target.</p> <p>Achieving the SB 1383 reductions will require the state to reduce landfill disposal to no more than 5.7 million tons of organic waste by 2025. In order to achieve these ambitious targets, the procurement regulations mandate that recovered organic waste products are produced from California, landfill-diverted organic waste. It is inconsistent with SB 1383 to mandate or incentivize activities that do not reduce in-state landfill disposal (e.g. procurement of compost produced from other states, or mulch produced from material that is not landfilled in California).</p>

Comment Number	Received From	Question/Comment	Response(s)
4437	Tillotson, T., County of Nevada Department of Public Works	Section 18996.2 Department Enforcement Action Over Jurisdictions. there does need to be some clarity regarding "sufficient funding" and an acknowledgment that there are limitations without funding support from the State. Low income conunULuties, excess tipping fees or hauling costs associated with new or struggling organic waste facilities, construction of new facilities, staffing. etc., should be taken into consideration when evaluating a jmjsdictions good faith effort to comply with this .mandate. For example green waste rates have been an increasingly challenging issue for jurisdictions in high fire zones over the past few years. Nevada County has been looking for ways to lower rates and increase access to green waste services in our community and cannot afford to simply subsidize this service. We are concerned that one of the unintended consequences of this 1egislation will he increased organics waste rates and ultimately less access to adequate disposing of green waste. I know Calrecycle is taking a hard line on determining burdens to rate payers, but I think this will become an issue of particular concern for jurisdictions in high fire zones.	The statutory language of SB 1383 allows local jurisdictions to charge fees to offset the costs of compliance. Use of the phrase "sufficient funding" is a component in determining when a jurisdiction may be eligible for a Corrective Action Plan that will extend compliance deadlines. The purpose is to ensure that jurisdictions receive appropriate relief from administrative civil penalties when they are subject to circumstances truly beyond their control. A failure to fund SB 1383 enforcement is an element fully within the control of a jurisdiction given their statutory permission to charge fees to ensure that they can meet their regulatory obligations. The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
4438	Tillotson, T., County of Nevada Department of Public Works	Section 18997.2 Penalty Amounts, this will require the jurisdictions to hire staff and create a new administrative and enforcement division without providing any funding to support these efforts.	Statue 42652.5 states a local jurisdiction may charge and collect fees to recover the local jurisdiction's costs incurred in complying with the regulations
3843	Transcript Part 1 3843 (Edgar, E., Edgar Associates)	What's also going on today is procurement of the compost that comes from the reduction of methane and the RNG, the renewable natural gas, and the bioenergy. So, this is a case where one silo here with regards to the short-lived pollutants, but what's important is that the other silos need to be mentioned as well, which you do later on today with regards to the compost market development to sequester carbon in a land base, in order to create RNG for the -- get off petroleum, and add on bioenergy for woodchip. So, in the future, it would be nice to kind of look at the holistic picture. So, that's why this year we're looking at AB 144, and it's called the organic waste scoping plan, to kind of get out of their silos and try to have some type of cross-relational aspects of organic waste. So, this slide kind of demonstrates everybody's in their silos. And as we move forward, it would be nice to get out of the silos and try to have that type of interrelation with the market development of organic products.	Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor's Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).
3844	Transcript Part 1 3844 (Pardo, V., California Refuse Recycling Council, Northern District)	I know we're not the only stakeholder community that's concerned about the organic waste definition. And I just want to reiterate that we'd like to see that definition be limited in scope to food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper as we see in AB 1826. And to that point, as we discussed and we'll discuss this later, the source-separated organic waste faction, we really see this looking at that green container and looking	Comment noted. CalRecycle disagrees that the definition of organic waste is too broad. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements

Comment Number	Received From	Question/Comment	Response(s)
		for that separate, you know, food waste focus. Not, you know, your carpet, your hazardous wood waste, or noncompostable paper. And to that point, the recyclable commodities that are tersely in the blue bin remaining in the blue bin and being managed as they have been under the 939 and 341 frame work.	(e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
3845	Transcript Part 1 3845 (Scheibly, K., Marin Sanitary Service)	But on my drive over this morning, from San Rafael, watching the sun rise, I started thinking about AB 341 and its goals to skyrocket recycling, the recycling rate in California. Every year since that legislation in 2012, the recycling rate has declined. And so, I'm thinking about SB 1383 and its goals. It's a good law. The intent of the law is good. But are we thinking that AB 341 didn't succeed because we didn't have daily, weekly, monthly, quarterly reporting, because we didn't have robust load-checking policies at our materials recovery facilities, because we didn't have outreach and education programs? It just made me think what is the intent of all of the reporting requirements.	Comment noted. The intent of reporting requirements is to track compliance with the regulations and to measure progress in meeting the organic waste diversion goals in statute.
3846	Transcript Part 1 3846 (Schiavo, P., CR&R Environmental)	Since the 1980s, we've collectively, you know, the industry has invested billions of dollars for a pretty enhanced collection system. We're the best in the country. Right now, because of China's National Sword and other conditions, because paper is an international commodity, we don't have anywhere to go with it because of those issues. So, what's going to happen when we introduce another few million tons of paper into the system? Most likely, it's going to be getting disposed, which is already happening. This is just going to exacerbate the problem. What's going to happen with homeowners who are paying higher fees to have their so-called recyclables collected and find out they're going to be disposed? I think it's going to be a big, potential PR problem. So, we'd like to see either a suspension or omission of paper from the definition. We already submitted written comments, as well.	Comment noted. The statute requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.
3847	Transcript Part 1 3847 (Wiraatmadja, V., Weideman Group, for Harvest Power)	The first one is that in Article 12 procurements, the list of organic waste products eligible for procurement has to be expanded well beyond the compost and transportation categories. We don't want to prematurely cut off any new technologies that might be new products that come about as new technologies roll out into this space. And, specifically, we do want to see eligibility for pipeline injection of the renewable natural gas.	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target.

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
3848	Transcript Part 1 3848 (Wiraatmadja, V., Weideman Group, for Harvest Power)	Second, we just want reiterate the need to adhere to the timeline. All of these projects take a lot of time to get up and running. The permitting-deciding, the actual building. And so, we need the regulatory certainty from like a strong adherence to the timeline to get the financing needed to build out these projects.	Thank you for the comment. The comment is in support of the current regulations and the timelines.
3849	Transcript Part 1 3849 (Wiraatmadja, V., Weideman Group, for Harvest Power)	And, finally, the enforcement mechanism and strong enforcement at the back end. It's going to be necessary in order to provide that market certainty, once again for these investments.	Comment noted. Comment is not recommending a change to the regulatory text.
3850	Transcript Part 1 3850 (Levin, J., Bioenergy Association of California)	Most importantly, there is no reason, legally or scientifically, to limit renewable transportation fuels to only the fuels that can be produced from anerobic digestion. And, in fact, the Air Resources Board right now is funding a study of converting urban wood waste, that would otherwise go to a landfill, as agricultural and forest wastes. But for CalRecycle purposes, the Air Board is already funding a study that would convert urban wood-based, through gasification, to pipeline biogas and then transportation fuel. And the regulations currently exclude a project that your sister agency is funding that would be carbon negative transportation fuel from wood waste, that would otherwise go to a landfill. So, we strongly urge CalRecycle to expand the definition in Article 1. It's definition number 62, of renewable transportation fuel, to include not just fuels produced from anerobic digestion, but fuels produced through gasification of other technologies consistent with Public	Regarding expanding the definition of "renewable gas" to include gas from technologies beyond anaerobic digestion such as combustion or noncombustion thermal technologies, CalRecycle disagrees with this approach. These technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors. CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.
3851	Transcript Part 1 3851 (Levin, J., Bioenergy Association of California)	We also urge you to adopt a definition of renewable electricity so that when we get to Article 12 this afternoon, we can talk about other end uses of biogas. Because it doesn't make sense to have projects that are already producing electricity, like landfill gas, or wastewater treatment facilities that could take additional diverted organic waste, and exclude electricity as an end use. So, we urge you to adopt a definition of renewable electricity in Article 1 as well.	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 "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

Comment Number	Received From	Question/Comment	Response(s)
			<p>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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding landfill gas, the SB 1383 mandate is to recover organic waste that would be disposed. Generating gas in municipal solid waste landfills requires disposal of organic waste in landfills; therefore, it is inconsistent with statute to incentivize or mandate activities that do not reduce landfill disposal.</p>
3852	Transcript Part 1 3852 (Bullis, C., Rethink Waste)	<p>So, we would just ask that once we get kind of through adopting the regulations that we work with you, CalRecycle, and receive technical support and guidance from you on how to actually achieve these things. Whether it's from implementing route reviews, or developing an ordinance, or calculating some of our targets for procurement of organic waste, or what have you, those are all things that we need to build new technical capacity for.</p> <p>And as the agency that's the architect of the regulation, we would hope that you guys would be able to provide, you know, outreach, and support, and guidance to the locals.</p>	<p>Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.</p>
3853	Transcript Part 1 3853 (Davis, J., Mojave Desert & Mountain Joint Powers Authority)	<p>In the regulatory impact assessment, we've got to look at what CalRecycle anticipates the cost impacts to be, about \$17 a year on single-family residents. The feedback I'm getting from our nine communities is it's substantially more than that in our area, and in some places it's multiples, you know, ten times to comply because of circumstances that we're still struggling to overcome in the regulations. All of our cities are economically disadvantaged by the State's own definition. CalRecycle recognizes the impacts on disadvantaged communities in some of the programs. And I'm asking that you consider that now, and particularly for economic disadvantaged communities.</p> <p>We have a city that is at 40 percent of the statewide median. If, in fact, it was a \$17 annual impact, the impact on a community that's 40 percent is much greater than the median income community. So, that \$17 as a median, you're looking at somewhere above, close to \$40 of impact, actual, you know, real felt impact on a community at 40 percent. So, you know, please give some consideration for waivers and also extenuating circumstances for the financial impact of these regulations.</p>	<p>Comment noted. CalRecycle disagrees that the cost per household is underestimated. Various commenters making this claim identified that they estimated the cost per household in their community is higher than the estimate estimated in the SRIA, or in the revised costs presented in the Appendix to the ISOR. The SRIA and the Appendix to the ISOR were not designed to specifically estimate the cost per household in, for example, Elk Grove or Santa Barbara. CalRecycle reiterates that the costs presented in both documents represent an estimated statewide average based on source documents that average costs from various regions across the state. Notably, the SRIA included the following disclaimer:</p> <p>“Note that actual increases in rates may vary among jurisdictions and may reflect other factors specific to that jurisdiction, including the existing level of program implementation the jurisdiction is already performing without a statutory mandate. For example, lower costs will result if the city or county has already implemented mandatory food waste collection for residential and/or commercial, and other programmatic activities, such as edible food recovery programs, education, and/or contamination monitoring. And larger cities and counties will have higher costs, e.g., they will have a larger number of inspections to conduct, etc. Rural cities and counties may</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>There's a lot to do for some communities that are going to be struggling to reach that.</p>	<p>have lower costs as they will have fewer inspections and they may be able to phase in implementation due to a lack of recycling infrastructure.”</p> <p>The Appendix to the ISOR also presents several statewide cost scenarios. CalRecycle conservatively estimated household costs based on the highest estimated cost scenario. CalRecycle acknowledges that jurisdictions that opted to require all businesses to have organic waste recycling services as a part of their implementation of AB 1826 will experience smaller cost increases than the jurisdictions that simply offered services rather than required them. CalRecycle additionally provided two regional variations in the Appendix to the ISOR to address</p> <p>The comment posits that the financial impacts of the regulations will be greater for disadvantaged communities but does not provide evidence or quantification of how the impacts will be greater in these communities. For example, will haulers or jurisdictions charge disadvantaged communities more to provide the same level of service provided to other generators? The comment does not provide specific examples of how waivers could be provided for disadvantaged communities, nor does it consider the impact such waivers could have on the state’s ability to achieve the statutory targets. CalRecycle considered the development of a waiver for disadvantaged communities statewide but found that a statewide exemption for disadvantaged communities would exempt a portion of organic waste generation that would threaten the ability of the state to achieve the statutory targets.</p> <p>CalRecycle encourages haulers and jurisdictions to structure their rates in a manner that reduces the economic burden experienced by low income communities. Haulers and jurisdictions have sufficient flexibility under existing law, and within the structure of the regulations to design their programs and rates in a manner that reduces the financial burden on economically disadvantaged communities. For example, haulers and jurisdictions could base their service rates on waste generation, which would allow economically disadvantaged generators that are likely to produce less waste to receive a lower rate. Jurisdictions and haulers could also identify other mechanisms to subsidize services for economically disadvantaged portions of their community.</p>
3854	Transcript Part 1 3854 (Brown, K., California Alliance for Community Composting)	<p>We're recommending that you create new and robust relevant definitions for community benefit composting, as opposed to what's existing now as community composting.</p> <p>We feel that definition that we submitted would recognize the community benefit nature of our work, in addition to setting size and volume limitations. It would also help replace and remedy the redundancy that exists in the current definition for community composting.</p>	<p>CalRecycle has noted the comment. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking.</p>
3855	Transcript Part 1 3855 (Brown, K., California Alliance for Community Composting)	<p>We also made a suggestion, too, for adding an additional definition for micro composting. And reducing this to composting on site at any one time that does not exceed 20 cubic yards and 200 square feet.</p>	<p>CalRecycle has noted the comment. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking.</p>

Comment Number	Received From	Question/Comment	Response(s)
3856	Transcript Part 1 3856 (Green, S., Sanitation District of Los Angeles County)	<p>I also had one comment about one of the definitions. I wanted to comment on the proposed definition of jurisdiction. So, from our perspective, the proposal now includes special districts that provide solid waste handling services. This would appear to include special districts, such as the sanitation districts, although solid waste handling isn't defined in the regs. It's defined in the code. Not sure if that applies.</p> <p>But as we're looking at the regulations, using that Public Resources Code definition, we are concerned because under the County Sanitation District Act, the act under which we were formed, we have a limited role. It does not include collection services.</p> <p>And so, in fact, it would be impossible for us to be able to fulfill the role of a jurisdiction under the proposed regulations. And so, that our request is to narrow that definition, either to exclude special districts, or to narrow it to just apply to special districts providing collection services, particularly if it's in lieu of a city or county.</p>	Thank you for the comment. CalRecycle revised the definition of 'jurisdiction' in Section 18982(a)(36) because the original term "handling" as used in the definition is overly broad. This change is necessary to provide clarity.
3857	Transcript Part 1 3857 (Boone, A., Center for Recycling Research)	<p>It was 30 years ago that we enacted AB 939. If you would ask the people who were involved at that time how much garbage we would have 30 years from now, nobody would have guessed the number that we have today. Okay, 42 million tons a year going to the dump was a crisis in 1989. Today, we don't seem to be too upset about that. I think we should be upset. I think we have to look back and what we've done in terms of enforcement, the kind of activities that have happened in the past 30 years that have failed to meet more significant waste reduction goals. It's very important and you need to understand that.</p>	Comment noted. The commenter is expressing an opinion regarding AB 939.
3858	Transcript Part 1 3858 (Boone, A., Center for Recycling Research)	<p>The second thing, mixed waste processing is a bad idea. Everybody in Europe knows that. A year and a half ago the European Union mandated that by 2024 all organics, all organics would be collected separately throughout the 500 million people who live in the European Union.</p> <p>We are now embarking on the step that they took 20 years ago and we're going to spend a lot of time pissing around, and fooling around with trying to rate and understand mixed waste processing, and we're going to come to the same conclusion they did, that it doesn't work very well. Okay. A lot of organics stay with the trash, et cetera.</p> <p>So, I think as both the National Recycling Coalition, and these are things I did not know the last time I talked to you, both the National Recycling Coalition and the Recycling Industries Coalition, which is the organization that includes all the paper manufacturers, and the glass manufacturers, and the metal manufacturers, they have all opposed mixed waste processing. Okay. You swimming upstream for the state that's supposed to be the innovation capital of the world. So, I'd like to see some changes there.</p>	Comment noted. The commenter is expressing a perspective on mixed waste processing.
3859	Transcript Part 1 3859 (Boone, A.,	<p>The third thing is that the 2011, we raised the question of what is comparable to source separation, okay. In nine years, this agency, in eight years this agency has failed to define what that means. I know people who are zero waste consultants</p>	Although it is unclear from the comment, the commenter is apparently referring to AB 341 (Chesboro, 2011) which has a requirement that commercial waste generators take at least one of the following actions:

Comment Number	Received From	Question/Comment	Response(s)
	Center for Recycling Research)	who are getting 90 percent waste reduction in various businesses that they set up zero waste programs in. Okay. That number, those kinds of numbers need to be understood by the agency and they need to be factored into what kind of expectations do we have on the part of people who want to do non-mixed waste processing. Do you understand that?	<p>(1) Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials.</p> <p>(2) Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.</p> <p>The commenter is conflating the quantitative requirement of comparable waste diversion rates in AB 341 with a qualitative value determination on the nature of waste that is diverted after processing. The commenter appears to be suggesting that AB 341 puts requirements on the cleanliness or quality of waste that is diverted from disposal through mixed waste processing. It is clear from the language of AB 341 that this is not the case. The language speaks to “diversion results,” meaning a quantitative determination on levels of diversion.</p> <p>Regardless, there are existing requirements on land application of compostable material as well as finished compost that limit the content of pathogens, physical contaminants and metals and thus address the quality of diverted organic material anyway.</p> <p>It is notable that AB 341 is silent regarding organic material. The statute that is more relevant is AB 1826, which deals with business recycling of organic waste. AB 1826 contains no provisions regarding “comparable to source separation” and instead simply has a provision in PRC Section 42649.81(b) giving businesses the option to “subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.”</p>
3860	Transcript Part 1 3860 (Noble, D., Association of Compost Producers)	One, Article 1, which has the definitions we did introduce and I will reintroduce them today, in addition to some further comments. Just general themes, there are some definitions that are leaving out, and we proposed a few new ones, particularly relative to compost. Certified compost in particular, because not all composts are alike. So, using and making distinctions. Also, compost end-use products. In addition, chip and grind material is not included. We would argue to include that. As well as compost overs, in addition to compost -- compostable materials.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.
3861	Transcript Part 1 3861 (Noble, D., Association of Compost Producers)	And then, as we did last year, wanting to introduce the terms bioproduct and bioresource to get away from or migrate away from the organic waste term.	CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. CalRecycle disagrees with the need to add definitions or examples of specific end uses in the regulatory language as recommended. For example, a jurisdiction has the flexibility to use compost for its local needs, which could be as varied as erosion control, school and community gardens, or a compost giveaway. It is overly burdensome and not feasible to list all the possible compost uses in the regulations.
3862	Transcript Part 1 3862 (Noble, D.,	But even the organic waste term has -- you have two different definitions. You know, one in the definitions and then one in the Article 11. And we argue that you	Comment noted. Article 11 uses a narrower definition of organic waste that aligns with existing planning requirements which jurisdictions must engage in to plan for organic waste capacity.

Comment Number	Received From	Question/Comment	Response(s)
	Association of Compost Producers)	<p>keep them the same, rather than creating a new definition for facility management. And the main reason for that is because you've limited a few of the terms, I have them written here, one of the main ones being manure.</p> <p>Since I know CalRecycle doesn't really manage manure, but the fact is that counties and local jurisdictions do have to manage that in concert with the woody material that is not part of the traditional waste system. And that's, in particular relative to how we define capacity. If we're only defining capacity as production capacity, under a given jurisdiction's regulations, or State regulations versus local, I think production capacity needs to also include market capacity. In other words, where are all these materials going. Use capacity, if you will. Because they're not going into the landfill, so where are they going? And if you produce too many products without having homes for those products, then you just have, you know, big piles of finished material with no market. So, all of that is in sort of nuanced definitions.</p>	
3863	Transcript Part 1 3863 (Noble, D., Association of Compost Producers)	<p>In addition, I think all of the articles need to be thought of in a whole systems way, not siloed, but fully integrated in terms of scale, from community compost up to huge facilities and everything in between. Because local communities have to integrate that with the markets, with the supply, as well as on the other side of integrating between all the departments and the different forms of capital, whether it be social, human, production, natural resources, and then financial capital.</p>	<p>Comment noted. The commenter is expressing a general opinion of how the regulations should be thought of.</p>
3864	Transcript Part 1 3864 (Oster, R., Diversion Strategies Consulting)	<p>And I felt compelled to get up here today because I think that today we're going to be hearing a lot about the challenges associated with designing, and implementing, and enforcing SB 1383. And those are all very just and it's important to work through the details with a fine toothed comb about how these regulations are going to be implemented. And we have a lot of fine, smart people who are doing that here.</p>	<p>Comment noted. Commenter is expressing an opinion as to the individuals involved in the rulemaking and general ideas as to how the rulemaking should be approached.</p>
3865	Transcript Part 1 3865 (Oster, R., Diversion Strategies Consulting)	<p>But I also felt the need to sort of get up and infuse a bit of hope and optimism into the conversation. And say that I think there are solutions providers outside of these walls that may not have the resources to dedicate to going through 1383, or coming here today to speak on behalf of their organization. But that there are solutions providers, and as far as I know, the edible food recovery space, the contamination identification and reporting space, as well as just the reporting and data collection in general that have readymade solutions for 1383, and are working diligently to design and provide new products. And so, I think more than ever before in this industry we are seeing a need to break down the barriers between hauling organizations and collection companies with technology providers, consultants, local government consultants, the nonprofit academia sector. And I'd just encourage everyone in the room to be aware of the people that are working to provide solutions, to reach across the table that you may not have before and come together to figure out ways to implement this really important rule.</p> <p>And so, I just wanted to encourage that, and infuse some hope and optimism, and say that California is the place where we applaud and incentivize innovation. And I believe that's happening around 1383.</p>	<p>Comment noted. Commenter is expressing general opinions regarding how the rulemaking should be approached and offering encouragement.</p>

Comment Number	Received From	Question/Comment	Response(s)
3866	Transcript Part 1 3866 (Lapis, N., Californians Against Waste)	It seems like a change from the previous draft is that there's no longer a requirement that the Air Board actually -- the Board, itself, actually vote to approve these individual technologies. It seems like it's now at the discretion of CalRecycle. That's potentially a workable option as long as we maintain the public process of it being approved at a public meeting, with notice, et cetera. Right now, it seems like it could be a staff decision. And I think given the nature of some of the things that will be proposed, it's important to have public input.	The commenter requests more certainty in approval of technologies and processes that might be considered technologies that constitute a reduction in landfill disposal pursuant to section 18983.2 of the regulation. To respond to the urgency of a need for approved technologies, section 18983.1 of the regulation was included in the proposed regulation. This section lists many technologies that are available today as approved landfill reduction technologies. For those technologies and processes that might constitute a reduction in landfill disposal, CalRecycle, in consultation with CARB, must do its due diligence to ensure that the technologies truly do reduce landfill disposal of organics as well as reduce greenhouse gas emissions—the latter being the primary purpose of the authorizing legislation (SB 1383) of this regulation. Further, to ensure that there is a clear timeline for approval of technologies and processes, CalRecycle proposed changes to the regulation that outline how long CalRecycle has to approve technologies and processes.
3867	Transcript Part 1 3867 (Lapis, N., Californians Against Waste)	And, additionally, I'd recommend that you add consideration of other potential impacts and impacts on disadvantaged communities, as well.	Comment noted. CalRecycle included provisions requiring additional notification/outreach requirements to disadvantaged communities in the solid waste permitting process.
3868	Transcript Part 1 3868 (Boone, A., Center for Recycling Research)	About five years ago, I was drawn to the fact that in the EPS laws being enacted around the country there was no rhyme or reason to it, but each state was sort of picking different materials to go after. And the question raised, that's current in my mind, is there a coordinated system to determine materials which are currently not marketable? And from that, I started making a list of all the materials I know that are not marketable. They have no market anywhere. And that's what belongs in the garbage can. What we always do, now, is we tell people hat to put in the recycling containers. What we really need to do is to tell people these are the materials that are allowed in the garbage can because there is no market for them. If we do that, then that does several tihnngs . One is it tells people what you need. It gives guidance to the people who are doing waste checking. And the other thing it does is it alerts the people who are manufacturing or handling these materials that they're on the S list from the State, because they belong in the garbage, because there's nothing else to do with them. Okay, and that to me -- nobody's tried that, yet. But it seems to me that if we're going to be innovative, we need to think about telling people these are the materials you cannot put in the garbage, rather than these are the materials you should put in the recycling. In Berkeley, now, we're currently designing a new transfer station. And it occurred to me, looking at that pile of stuff that people was allowed to dump in the transfer station, is we're actually enabling wasters by offering them a service. Because they come in with all this stuff mixed up. But if you sit there and take it all apart, it will be -- it's 90 percent of it's recyclable, over 90 percent. So, I think it's just a different way of looking at things.	Comment noted. Commenter is expressing a general opinion regarding the importance of markets for recyclables.
3869	Transcript Part 1 3869 (Levin, J., Bioenergy Association of California)	There's no reason to limit the conversion method to anerobic digestion. And in fact, many wastewater treatment facilities around the State want to take a second energy bite at that waste, reduce truck miles. In the Bay Area, alone, transporting digestate or biosolids from wastewater treatment facilities to the Central Valley, where they can be land applied, is 100,000 truck miles a year just to transport those	CalRecycle disagrees with expanding the definition of renewable gas beyond anaerobic digestion. The purpose of the current regulatory language is to be consistent with SB 1383 statute that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. In-vessel digestion facilities are solid waste facilities, which allows CalRecycle to verify that these facilities are reducing the disposal of organic waste. These alternative conversion technologies,

Comment Number	Received From	Question/Comment	Response(s)
		<p>biosolids to where they can be land applied. Many wastewater facilities and the California Association of Sanitation Agencies would like to be able to further convert biosolids to biochar, using gasification. They'll get additional energy out of the waste and significantly reduce the tons that then have to be trucked to where they can be land applied. So, we urge you to expand the definitions in Section 18983.1(6)(b) to include opportunities to further convert digestate and biosolids through gasification to biochar. Which according to the Air Resources Board is the only way to provide permanent carbon sequestration, which compost does not do. It provides nutrients and many other benefits, but not permanent, long-term carbon sequestration. So, there are many short-lived climate pollutant and greenhouse gas reasons to expand the definition of what can be land applied.</p>	<p>such as gasification as mentioned in the comment, are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.</p>
3870	Transcript Part 1 3870 (Foster, C., City of Oceanside)	<p>This law is very important and our city supports it. However, the solutions to comply with this law shouldn't be one-size-fits-all and it needs to understand the complexities of the different industries impacted and involved. And limiting diversion opportunities to only anaerobic digestion and composting makes it extremely difficult for advancement in regards to our wastewater treatment facilities or other diversion opportunities.</p>	<p>The regulations include opportunities for other technologies to be considered as reduction of landfill disposal in Section 18983.2.</p>
3871	Transcript Part 1 3871 (Foster, C., City of Oceanside)	<p>And I see this section as CalRecycle trying to respond to the issues associating with limiting the diversion opportunities. But, truthfully, it's not enough. And it doesn't give us the confidence to be able to invest in infrastructure now, if we don't know if it will be approved from CalRecycle down the road.</p> <p>For example, has CalRecycle tested this Section 189 to see whether some of the other technologies and systems proposed would even comply, would even be approved by CalRecycle. For us to meet the diversion goals or the compliance goals by 2024, we need to invest in infrastructure now. And I can't get financial lending based off of something that may or may not be approved by CalRecycle, or a public comment process, as mentioned by Nick Lapis. So, that's very important.</p> <p>And that's different. That's not in my letter. The City of Oceanside submitted a letter. So, it's really important that you understand the need that we need confidence today, not in 2022 when the law is passed and this process is done.</p>	<p>The commenter does not request changes to the regulation, but requests that CalRecycle make available any tools or methodologies utilized to quantify greenhouse gas emissions reductions from organic waste diversion technologies, as well as other already-approved technologies and processes such as composting and anaerobic digestion. CalRecycle staff recognize that such tools and methodologies may be helpful to jurisdictions and will consider this request outside of the official regulatory process.</p> <p>The commenter requests more certainty in approval of technologies and processes that might be considered technologies that constitute a reduction in landfill disposal pursuant to section 18983.2 of the regulation. To respond to the urgency of a need for approved technologies, section 18983.1 of the regulation was included in the proposed regulation. This section lists many technologies that are available today as approved landfill reduction technologies. For those technologies and processes that might constitute a reduction in landfill disposal, CalRecycle, in consultation with CARB, must do its due diligence to ensure that the technologies truly do reduce landfill disposal of organics as well as reduce greenhouse gas emissions—the latter being the primary purpose of the authorizing legislation (SB 1383) of this regulation. Further, to ensure that there is a clear timeline for approval of technologies and processes, CalRecycle proposed changes to the regulation that outline how long CalRecycle has to approve technologies and processes.</p>
3872	Transcript Part 1 3872 (Foster, C., City of Oceanside)	<p>Additionally, I'd like to also just mention, to add to her comments, is I wouldn't even limit it to biochar. We're recommending that the language is changed to be more general, to state essentially diversion processes that would limit pathogen. So, CalRecycle to accept any processes in regards to land application that would limit the pathogen aspects of the material.</p>	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO_{2e} per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
3873	Transcript Part 1 3873 (Helget, C., Republic Services)	<p>Just a quick comment on MRF fines. Some comments are contained in our letter. I don't think this is redundant. But when you say substantially free of organics, I think is the term you used, does that mean 10 percent? What does that mean? I think we need to have a clearer definition. For plugging MRF fines, there are residuals that come off the line. There really isn't another use for them. And so, having an organic standard tied to them doesn't make any sense to us.</p>	<p>The provisions regarding MRF fines were removed from the regulatory language</p>
3874	Transcript Part 1 3874 (Schoonmaker, K. Stop Waste)	<p>But, it's about the compost emissions reduction factor that you're using for -- to constitute an efficient technology, an acceptable technology. So, that seems a lot lower, .3 is what you've got now, after the revisions. And the CERF is .56, right, for food and yard trimming. When I looked at the revisions that you made, one thing that stood out to me was using the Healthy Soils Initiative application rate, which works out to about like .1 inch, which is much lower than you would typically apply. And the way that they got that application, it was more kind of, to my understanding, what they would subsidize with the funding they had so they could spread it. So, it's not so much a recommended application rate that you would find for compost in an agricultural application. So, and it also doesn't take into account emission reductions from landscape, which is a higher application rate. So, I just wanted to make that point that that might be a little low, and I don't know if it's possible to refine it.</p>	<p>As the commenter notes, the 0.30 MTCO₂e/short ton organic waste threshold for determining if a technology or process constitutes a reduction in landfill disposal is based on the greenhouse gas emissions reductions associated with composting. Staff used the best available science to derive a value that represents greenhouse gas emissions benefits for applying compost in lieu of synthetic fertilizer to agricultural crops throughout the state. Healthy Soils Program application rates are found in the Compost Application Rates for California Croplands and Rangelands for a CDFA Healthy Soils Incentives Program,² and those rates are based on scientific literature reviews, recommendations from the compost subcommittee of the Environmental Farming Act Science Advisory Panel, and public comments. Actual compost applications rates will vary depending on site-specific conditions, soil fertility needs, and other factors. Landscaping application rates were not considered since the majority of compost sold in California is used for agriculture.³ The commenter asks if the compost emission factor is 0.56 MTCO₂e per short ton for food and yard waste. This value cited is based on an incorrect value summarized in Table 14 from CARB's Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities,⁴ which did not subtract greenhouse gas emissions associated with producing compost. After subtracting greenhouse gas emissions from composting operations (e.g., fugitive methane and nitrous oxide from windrow composting operations), the final emission factor should have been 0.49 MTCO₂e per short ton mixed organic waste. The commenter should note that staff modified CARB's methodology to derive an appropriate threshold for determining if a technology or process constitutes a reduction in landfill disposal.</p> <p>Several commenters suggested using avoided landfill emissions as the benchmark in the determination of processes or technologies that constitute a reduction in landfill disposal. Although this proposal might increase diversion of organics from landfills, it would not achieve the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 or the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO₂e per short ton organic waste was set to ensure emission reductions for any new process or technology are comparable to the emission reductions necessary to achieve the strategy's emission reduction goal of 4 MMTCO₂e for this sector.</p>

Comment Number	Received From	Question/Comment	Response(s)
			Several stakeholders submitted comments that indicate confusion about how the 0.30 number was calculated. To provide greater clarity, staff provide a detailed description about the calculation of this number in the guidance doc included in the record
3875	Transcript Part 1 3875 (Stein A., Environmental Health Trust)	The comment I wanted to make is that it seems as though the solution to pollution is -- you know, we all know the answer, right? But in this case, the solution to dilution really needs to be, you know, not diversion, not dilution. It really needs to be prevention. And we can't just think that we're going to avoid the pollution by just mixing it all up and making the contaminants, the pathogens, the toxics just by making them less because we're putting it in a bigger sea of stuff. It just isn't right. I don't know. But that's one comment.	Comment noted. Commenter is expressing a general opinion regarding the importance of markets for recyclables.
3876	Transcript Part 1 3876 (Stein A., Environmental Health Trust)	The other comment is that source-separated waste, mixing it with the mixed waste organics, or the remnants, it's -- you know, we're expending all kinds of capital to get the source-separated materials ready to be composted or processed. And then, we're thinking of mixing them together. I mean, we just spent all this money to keep them separate and now we're mixing them back. I just think that just doesn't fit in the definitions that you have.	A change to the regulatory text is not necessary. CalRecycle is interpreting this comment as requesting a prohibition on mixed waste processing. CalRecycle already determined that mixed waste processing is allowable if it meets the high diversion performance standard.
3877	Transcript Part 1 3877 (Cheyne, A., California Association of Food Banks)	On Article 11, specifically 18992.2 in the edible food recovery piece. In A, we ask for inclusion of additional stakeholders. We support the planning process completely and want to be on record on that. But would encourage that the counties, and cities, and regional agencies coordinate with the stakeholders as they do the assessments. Currently, as it's written there is specified engagement with emergency food recovery groups and other organizations in B, but that's only after the capacity is assessed. And we think it's prudent to actually talk with the groups on the ground who are going to have that firsthand knowledge. And so, to specify that that engagement occur, please, in A.	A change to the regulatory text was not necessary because it is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations and food recovery services. Section 18992.2 also states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. CalRecycle would also like to clarify that nothing in SB 1383's regulations prohibits a county, jurisdiction, or regional agency from consulting with additional relevant stakeholders to assess edible food recovery capacity.
3878	Transcript Part 1 3878 (Cheyne, A., California Association of Food Banks)	And then, in B, I just want to offer our strong and vocal support that this language remain in the final regulations. Coming from one of the few stakeholders who has been involved in this process since the beginning, I want to thank the Department for making sure that our voice is part of this conversation. I know that we are kind of an interesting piece that fits into this much larger discussion. But it's simply the case that we are under-resourced nonprofits. There's 41 or so food banks across California and there's about 6,000 other agencies that we would probably label food recovery organizations in this language. And, obviously, there's a dynamic space of food recovery services, and we all need to grow this. But simply put, you know, this food is not going to truck itself, keep itself cold. You know, the fuel that's required, the staff time, and the administrative costs. And so, the only way that this is going to work is to maintain the language that enables and empowers local jurisdictions to be able to decide what the capacity is, what the gaps are, and then what the	A change to the regulatory text was not necessary because this comment is in support of SB 1383's edible food recovery capacity planning requirements and the requirement that jurisdictions implement food recovery programs.

Comment Number	Received From	Question/Comment	Response(s)
		response is. Including the revenues, and resources, and approaches used to close that gap.	
3879	Transcript Part 1 3879 (Cheyne, A., California Association of Food Banks)	Finally, I just wanted to quickly comment on self-hauling. I realize that self-hauling is not exclusive to edible food by any means. But as I just mentioned, because of the lack of capacity, we think of self-hauling as one creative way to get at those edible food recovery gaps in terms of recovery organizations, and potentially be able to work out one-to-one relationships as it fits all the parties.	A change to the regulatory text was not necessary because this comment is in support of the regulatory provision allowing commercial edible food generators to self-haul their edible food to a food recovery organization provided that they have a contract or written agreement with that organization that allows them to self-haul.
3880	Transcript Part 1 3880 (Goncharoff, T., Santa Cruz County)	I wanted to focus for a moment on the educational institutions. Those of us who speak on these issues around the State know that the level of awareness among local governments is not nearly what we would with it to be. I can tell you, among educational institutions this is not on their radar at all. So, I would encourage the Department to consider a targeted outreach program specifically for local school districts who need to know what's coming and start preparing.	Comment noted. Commenter is suggesting target outreach will be important for education institutions. CalRecycle will be performing outreach as a component of regulatory implementation.
3881	Transcript Part 1 3881 (Goncharoff, T., Santa Cruz County)	I also wanted to share a little bit from our experience in Santa Cruz County. We began collecting and processing food waste from businesses, institutions, and schools in Santa Cruz County in 2006. At the elementary school level, we have seen a lot of succes. Middle schools and high schools not so much. You might imagine, because they tend to be sprawling campuses full of teenagers that the logistical and oversight challenges are really problematic. And because local jurisdictions have very limited authority over schools, our ability to address these problems are also limited. So, if we're going to have a successful program among educational institutions, I think the Department is going to need to consider what kind of oversight and assistance they can provide to help a school district succeed.	Local jurisdictions should still provide education to non-local entities and local education agencies within their geographic boundaries, as they already are doing under AB 1826 and AB 341. It is Important for these entities to know what collection options are available locally. CalRecycle will also provide assistance to local education agencies in implementing programs. The regulations already provide that compliance with this provision by these entities would be enforced by CalRecycle. CalRecycle will be providing guidance and training to regulated entities including schools.
3882	Transcript Part 1 3882 (Davis, J., Mojave Desert & Mountain Recycling Authority)	But Cara, on the slides you'd show on the collection system I think were helpful. There's language in 18984.2(a)(3) that seems to allow what I would call a hybrid system, where you can put stuff in one container that isn't otherwise allowed. You really need to split that out from the section. It's really hard to read through and understand what is meant by that (a)(3) exclusion because there's language that comes back and seems to say, yeah, you can do it, but you can't do it. And then, clarify both the monitorin bags, prohibited materials, all of those if you're going to relate it back to (a)(3) when you read down forward, do you really need to do the same level of monitoring on that hybrid container or is it like a grey container? So, just a suggestion. It would make it much more helpful to understand it.	During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels. CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions.

Comment Number	Received From	Question/Comment	Response(s)
			<p>However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in 31 Section 18982 (a)(65) which allows the use of cameras to determine container contamination. In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization</p>
3883	Transcript Part 1 3883 (Davis, J., Mojave Desert & Mountain Recycling Authority)	<p>On monitoring, generally, it seems like when you start a program, when you change something, you know, it's important to emphasize the quality to maybe the quarterly monitoring of all routes makes sense. As you go forward and people are performing well, why keep going back and requiring the pretty massgive expenditure of effort and funds. So, you know, give some relief once there's evidence that the program's working well. To me, the evidence is at the receiving facility, the compost facility, the organics facility, the recycling facility that receives the material. And you've already got language in there that feeds that back into the monitoring loop. So, give some thought to not continually requiring quarterly monitoring when there's no necessity for it.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. CalRecycle also revised it to be annual. A jurisdiction could change from route based to facility based monitoring in the scenario that the commenter provides.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3884	Transcript Part 1 3884 (Davis, J., Mojave Desert & Mountain Recycling Authority)	<p>Howard, on the -- low population, that's really generation and not all communities are the same. And economically disadvantaged communities typically generate less per capita. And yet, you've got a population threshold that they have to reach. I'd suggest using 5,000 tons. If that's the number to use, use 5,000 tons. Why tie it to a population number, when you're really after the generation and you're after the reduction.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500.</p>
3885	Transcript Part 1 3885 (Davis, J., Mojave Desert &	<p>And far as the de minimis language, I looked at it and if you're less than two cubic yards, you need to be ten gallons of material. If you're over two cubic yards, you've got 20 gallons. You know, is it really 20? And, you know if you're less than 10 cubic</p>	<p>As explained in the FSOR, 10 and 20 gallons respectively equate to roughly 10 percent of waste generation for small businesses that produce 2 cubic yards and 1 cubic yard of organic waste for that specific container per week. This de minimis threshold was established based on input from</p>

Comment Number	Received From	Question/Comment	Response(s)
	Mountain Recycling Authority)	yards and you're, you know, 15 gallons, do you sign up for more service so you can get the exemption as a two-cubic-yard. You know, so if it's really 20, just let it be 20 and not set that second hurdle on the really small generators.	stakeholders while also ensuring that these waivers do not compromise the state's ability to achieve the organic waste reduction targets.
3886	Transcript Part 1 3886 (Davis, J., Mojave Desert & Mountain Recycling Authority)	Just a couple more, quickly. I've made suggestions before on using language that's in the Beverage Container Recycling Act to give some more flexibility on the rural definition. It uses a federal definition. It's already in statute at CalRecycle and would give you more flexibility. It's not a hard, fast number. It just says, you know, there may be other circumstances than being in a rural county. The statute specifically did not use rural county as the threshold, and yet you've defaulted back to rural county. That's fine. But give some flexibility to those jurisdictions that are in non rural counties, and it's already in your statute to do that.	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
3887	Transcript Part 1 3887 (Davis, J., Mojave Desert & Mountain Recycling Authority)	<p>And, lastly, on the capacity I admit that I did not break down that section maybe enough. Because, Howard, I think I understood you to say that if the county doesn't have sufficient capacity, then all the cities in the county have to work to provide capacity. And maybe I misunderstood that. Because if a city has the reservation of capacity, you know, they shouldn't have to go through an extensive process to provide the capacity they already have.</p> <p>Note Response from Cara....MS. MORGAN: John, I'm not sure I completely understood you. So, one thing I'll clarify is that it is only the jurisdiction that does not demonstrate it has adequate capacity has to provide the implementation schedule. So, if the other cities and counties have demonstrated adequate capacity, there's nothing -- they just continue to report in subsequent reports.</p> <p>MR. DAVIS: There may be cities that don't have capacity. Overall county may not have adequate capacity. But there would be cities within that county that have adequate capacity there.</p> <p>MS. MORGAN: Correct. Does that answer it?</p> <p>MR. DAVIS: Okay, then I misunderstood. So, yeah, thank you.</p>	<p>This comment was addressed in the workshop. Only the jurisdiction that does not demonstrate it has adequate capacity has to provide the implementation schedule. So, if the other cities and counties have demonstrated adequate capacity, they just continue to report to the County for subsequent reports.</p>
3888	Transcript Part 1 3888 (Astor, K.)	<p>The first is facilities. And I guess I'm still somewhat concerned that these regulations appear to presume the sustained viability of the existing network of facilities and that the additional hundred or so facilities that we need to have come online will appear. You make that assumption at the same time that the regulations</p>	<p>Stakeholder comments regarding mixed waste processing facilities span a wide spectrum -- from allowing existing facilities to continue to operate even if they do not meet higher diversion standards, to establishing a waiver process for allowing such facilities to continue to operate for 10 to 15 years beyond the target dates in statute or the effective date of the regulations</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>themselves threaten the continued viability of certain kinds of facilities. As I've explained many times before in meetings and in public, a number of these facilities were financed by my clients, who despite having a corporate history of 30 or 40 years of operation, where the owners were forced to personally guarantee them. We're talking tens of millions of dollars. They didn't fall out of the sky. Someone has to come build them. I'm concerned about the chilling effect some of the performance standards these regulations imposed will have on the development of the new facilities that these regulations rely on. I, therefore, believe that there ought to be some form of allowance. Call it a grandfather, or whatever you want, for facilities. And this can be mixed waste facilities. I can be other kinds of facilities. There are facilities out there that are 939 driven that provide significant diversion, that perform as they were designed to perform. Let us not do any injury to them. We know that Section 2 of AB 341 actually stated the Legislature's intent six years ago that these facilities should be as a valuable asset. They provide a net environmental benefit to the community. Their continued operation should be sustained and they should be expanded. Let's do no harm to the existing network. Give them at least a ten-year glide path where they can continue to operate, even if they don't qualify as high-performing MRFs, or whatever the new terminology is. And let's let the new rulemaking be supplemental to, rather than diametrically opposed to some of the 939 efforts that we undertake.</p>	<p>respectively. As currently written, the regulations allow some time for a non-compliant facility to come into compliance; i.e., at a minimum, it will be over 6 months after the regulations are in effect before sufficient information is available to determine whether a facility has been out of compliance for two consecutive quarters. When this is the case, then a NOV would be issued to the jurisdiction(s) using that facility, requiring compliance within 90 days. The department may extend this period to a total of 180 days, after which it may issue a Corrective Action Plan for up to 24 months. This means that it will be at least 2 and possibly 3 years after the effective date of the regulations before the jurisdiction is not allowed to use a non-compliant facility. This would give facility operators several years in which to make necessary operational changes to come into compliance.</p> <p>During the informal rulemaking period, CalRecycle responded to many stakeholder requests for additional flexibility to allow these mixed waste facilities to continue operating beyond the effective date of the regulations. As noted in the ISOR, Sections 18984.2 and 18984.3 allow alternatives to providing a three-container source-separated organic waste collection service. Under these sections, jurisdictions are allowed to require their generators to use a service that does not provide generators 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 that are specified in Section 17409.5.1. 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, Sections 18984.2 and 18984.3 provide the flexibility requested and lay out minimum standards for two-container and unsegregated single-container organic waste collection services.</p> <p>Regarding the proposed exemption for one facility, CalRecycle disagrees in principle with the concept of carving out exemptions for specific facilities or specific jurisdictions on the basis of regulatory criteria that only fit that situation. If CalRecycle allowed this for one facility or one jurisdiction, then there would be no justification for not allowing similar proposals. This effectively invalidates the ability to create an even playing field with a single statewide regulation designed to achieve a statutory target. This could result in an unknown but conceivably large number of facilities and jurisdictions being exempted, with associated negative impacts on the ability to reach the mandated statewide organics disposal reduction goals.</p>
3889	Transcript Part 1 3889 (Astor, K.)	<p>Facilities aside, my other general comment is this. I've read the law itself, the statute rather closely, lately. And, you know, I see something of a gulf between what the statute says and the regs. But some of that is stylistic. You have, I think, the ability to be creative where you need to be and I recognize some of that discretion properly belongs with you. But when we talk about safe harbors or we talk about good faith effort, or something in that vein, the reaction we've gotten thus far is it wasn't authorized by the statute. I'm here to tell you there's an S load of stuff in your regulations that isn't directly, expressly authorized by the statute. So,</p>	<p>Consistent with CalRecycle's broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission's 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that "state agencies should</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>just as you've taken some liberties there, and for good cause, I would urge you to consider providing some recognition in the regulations for what happens if. If all of the assumptions that are being made don't prove true. Some of us believe, we already know that the facilities development will not occur at the pace it needs to and we're going to be left with inadequate processing capacity. And then, of course, there's the whole markets question. If National Sword has taught us anything, we can't presume, indefinitely, the availability of adequate markets for the material we hope to recover in this way. So, I'm not sure how that gets done, but I don't see an adequate enough expression of it now.</p>	<p>consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas." As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>The Air Resources Board's Short Lived Climate Pollutant Strategy states, "CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products."</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p> <p>Regarding paper procurement requirements, CalRecycle's 2014 Waste Characterization Study found that paper accounts for 17.4 percent of the disposed waste stream.</p> <p>Requirements on jurisdictions to meet the recycled content paper procurement requirements will help grow markets for recycled content paper. Given the prevalence of paper in the disposal stream, increased procurement of recycled paper is needed to grow the market for recycled paper in order to achieve the organic waste reduction goals. This is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.</p> <p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>"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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements."</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>"With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, metals, paper, and plastics are remanufactured through distinct processes</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>(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.</p> <p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additional flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections 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)..."</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>"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.</p> <p>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.</p> <p>Therefore, in order to meet the recovery targets specified in statute and the state's ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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.”</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be “protected” or provided a “safe-harbor.” The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p>
3890	Transcript Part 1 3890 (Balsley, R., Alameda Stop Waste)	As it pertains to collection and planning, since multi-family properties are included in the definition of a commercial business, I'm concerned with the assumption that multi-family properties and businesses can be treated the same, with generator requirements and associated enforcement. Particularly, in regards to inspecting for organics in the garbage, and garbage and organics, and provision of organic and recycling containers in all areas where disposal containers are provided. Our ordinance acknowledges that a property owner or manager at a multi-family property does not have control over the sorting behavior of their tenants. And we only enforce against a lack of provision of service.	CalRecycle agrees that the provisions for commercial business sometimes need to differentiate between businesses and multifamily residential dwellings. However, rather than creating a new and separate definition of multifamily residential dwellings, CalRecycle added clarifying language in Section 18984.9.
3891	Transcript Part 1 3891 (Balsley, R., Alameda Stop Waste)	There is also a higher expectation of privacy in residential settings that needs to be considered. Early in our enforcement, ordinance enforcement, we attempted to inspect multi-family properties to verify provision of service and found that nearly half the time they couldn't get to the hauler bins due to access issues.	CalRecycle has revised Section 18984.10 in response to this comment. Section 18984.10 states that a commercial business shall provide or arrange access to their properties during all inspections conducted pursuant to Article 14 of this Chapter. For businesses such a multi-family that have access issues, a jurisdiction may prearrange with the property owner for an inspection. Section 18984.10(a)(1) was added to clarify the it is not intended for an employee or agent of the Department, or a jurisdiction, to enter the interior of a private residential property.
3892	Transcript Part 1 3892 (Balsley, R.,	Also, our ordinance provides for granting of waivers, such as de minimis generation of physical space constraints. The draft regulation language that requires annual	CalRecycle has revised the verification period to five years in response to this comment. Thank you for the support comment. This comment is in support of the current language.

Comment Number	Received From	Question/Comment	Response(s)
	Alameda Stop Waste)	verification of these waivers divert inspection and staff resources to these smaller generators from more important, larger generators, in my opinion.	
3893	Transcript Part 1 3893 (Balsley, R., Alameda Stop Waste)	Also, as it pertains to self-hauler requirements, in our ordinance and limitation we require businesses that self-haul, back-haul, share service or use a third-party, independent recyclers to submit a certification of recycling service form with information about where they're taking their recyclables and organics. While some of these are larger corporate entities that we've approved, many are small businesses that are trying to save money on collection costs by either taking their small amount of generated recyclables home or to a drop off recycling facility.	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.
3894	Transcript Part 1 3894 (Balsley, R., Alameda Stop Waste)	The requirement to collect annual organic waste tonnage from smaller businesses would not be possible from those who aren't keeping track of the weights and back-hauling. And it's not worth the staff time to try and track that down.	Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements. Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(b) to include all education requirements for single unsegregated collection systems.
3895	Transcript Part 1 3895 (Ryan, P., PF Ryan & Assoc.)	I represent and assist low and moderate-income communities in the Southern California desert...Within the structure of the exemptions that your Department provides, we have no relief for those communities. And as pointed out by John Davis earlier, we need to give some consideration to those communities. Because one current community that I work with has less than a ton a day of green waste, and primarily its palm, which you can't very easily process into viable products What I'm introducing today is some language that addresses a new section under the waivers and exemption criteria for extraordinary and extenuating circumstances exemptions. And this would mirror the rural exemptions, but only for those communities that are disadvantaged in the south...I would hate to think that the	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square

Comment Number	Received From	Question/Comment	Response(s)
		<p>City of Blythe, for example, would have to process at the same level as Beverly Hills. That's just ludicrous and impossible to consider.</p>	<p>mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
6489	Transcript Part 2 6489 (Stein, A., Environmental Health Trust)	<p>My comments on this section is from Article 5, 17867, the general operating standards, but it applies to some other sections, too. It's about the LEA or the authority having jurisdiction, the AHJ, and other code. It appears that you're giving the LEAs the oversight on odors, and on other matters of quality of the operations. And there's not a uniformity from one LEA, in my county, of Alameda County, thank you very much -- Alameda County versus the LEA down in Santa Clara County. They act and have completely different ways of responding to the odor complaints. Five years, Milpitas odor. If you go there, five years of complaints and, you know, there hasn't been much solution. The LEA where I live, Davis Street, Alameda County says odors are not something that they have any authority over. So, I think you have it written in here the odors and the LEA has jurisdiction. You know, I think there needs to be more uniformity. Thank you.</p>	<p>CalRecycle has noted the comment. This is not within the scope of this rulemaking.</p>
6490	Transcript Part 2 6490 (Scheibly, K., Marin Sanitary Service)	<p>I believe this is Article 3, Section 1898.4 something, color-coding. It might be page 10, lines 27 through 29. I read it a few times. One, color-coding is a great step forward for the State, I firmly believe. However, I do not feel -- and this is in my comment letter along with pictures. But I thought it was worth reiterating. Dual stream recycling is not a split cart, necessarily. Dual stream recycling, from most in California, is separating fibers from containers. Not one side of a card landfill, one side food waste, one side recycling, one side compost. But one side's fiber and one side's container. So, if the color's blue, am I dark blue, light blue now? Or, am I different color? Because it says I can choose a fourth color for a fourth stream. But now, my recyclables are a different color and everyone else's are blue. Just a thought.</p>	<p>Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. The regulations do not preclude a jurisdiction from having split carts, but in the commenter's scenario this would mean the jurisdiction has a 3-container system that meets the requirements of Section 18984.1. Also, Subsections 18984.1(a)(6)(B) and (C) do not require only that light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container.</p> <p>Further language was added clarifying that a jurisdiction could split the recycling portion of a two-container service to further segregate recyclables, however the gray container would still be required to be transported to a high diversion organic waste processing facility. See statement of purpose and necessity for Section 18984.2</p>
6491	Transcript Part 2 6491 (Brown, k., California Alliance for Community Composting)	<p>But we'd like to start out with Article 3 on collections, on the de minimis waivers, especially in rural areas. We're finding that this could be another opportunity to strengthen the language around supplemented onsite composting, on farm composting cooperatives by allowing up to 30 percent of feedstock to be sourced from offsite. So that farm cooperatives, themselves, can provide an opportunity for rural facilities to exist without needing to go through a full permitting process with CalRecycle. This could be for facilities that accept green material, agricultural material, agricultural byproduct material, herbivore manures, food material and vegetative food material up to 12,500 cubic yards. And</p>	<p>CalRecycle has noted the comment. CalRecycle is not proposing to revise the regulatory permitting tier structure. This is not within the scope of this rulemaking.</p>

Comment Number	Received From	Question/Comment	Response(s)
		the reason for this is that it could really offer an opportunity for community composting to not only be successful in urban areas, but also to be an option in rural areas that wouldn't be as accessible by collection haulers and local facilities in the area.	
6492	Transcript Part 2 6492 (Brown, k., California Alliance for Community Composting)	And then, the next point on collection, for self-hauling, we do appreciate that there is some language added to the draft regulations that say that any individual generator or a business, commercial can self-haul to community composting sites. However, I'm not sure if you're quite familiar with the self-hauling permit process. In Alameda County, especially Oakland, this is an all or nothing package deal. You can't just apply for a self-haul permit for organic material, only. So, it puts the generator into a really tough position to say I'd like to donate some of this organic material to a community composting site in hopes that I would reduce my overall waste collection bill. However, I'm only given the option to self - haul everything. That's makes them responsible for getting rid of their black bin and their blue bin on their own. So, we're asking that maybe there could be language put in that allows self-hauling of organics only to community benefit composting. Specific language that we'd like to recommend is for Section 18988.1, under Jurisdiction of Haulers and Self-Haulers, we'd like to add Section D. That would read: A jurisdiction shall not create unreasonable barriers to, or prohibitions against, the transport of organic material to a micro composting site, a community benefit composting site, or a supplemented onsite composting.	No change to the regulatory text is necessary to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of organic waste.
6493	Transcript Part 2 6493 (Brown, k., California Alliance for Community Composting)	And then, we'd also just like to emphasize the education and public outreach portion, and also capacity planning. We do understand that you've put in some language here that encourages jurisdictions to include us in not only their capacity planning, when they think about total volumes of material that's passing through these sites. But recognize as the role that we play in educating communities on the proper way to compost. And this would help an overall system succeed in reducing the amount of contaminants that make it into the green bin. As soon as individuals have an individualized connection with the composting process, they have more incentive to do it correctly and us a three-bin system. So, as far as the public outreach, support and a little bit more coordination between jurisdictions and community composters. Maybe that could be through funding or budgeting offered also in these regulations. Thank you very much.	The regulations include a requirement for consultation with relevant entities including jurisdictions, community composting operations, and edible food recovery services and organizations. Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
6494	Transcript Part 2 6494 (Foster, C., City of Oceanside)	Actually, I'm going to jump to community composting . After about 15 years in this industry and hearing about every opportunity and loophole for generators to get out of paying their bills, or to be able to dump on their neighbor, or dump in the backyard, all their restaurants food waste or waste, I'm very concerned at the lack of accountability on community composting, in particular. I do community composting. I support community composting. I think this regulation needs to support community composting. However, we need accountability for community composting. This regulation provides exemptions on community composting in regards to public nuisances, storage, size. It provides no language as to whether	Community composting, as specified in Section 17855(a)(4), is an excluded activity and therefore does not require a solid waste facility permit or EA Notification. CalRecycle determined during the rulemaking process for the 2015 compostable material handling rulemaking that the small size of these operations does not represent a significant enough threat to public health, safety, or the environment to require permitting. To ensure oversight, however, a solid waste Enforcement Agency may inspect these activities to verify that continued qualification as an excluded activity and may take any necessary enforcement action. Nothing in the cited section allows for community composting operations to be exempt from registering or reporting to the jurisdiction. In addition, any community composting operation must operate lawfully in accordance with all

Comment Number	Received From	Question/Comment	Response(s)
		community composting operations should report. However, businesses can say they're using community composting and I have no way to find out if that's true or not because there's no reporting system or interaction between the jurisdiction and the community composters, because they have a blanket exemption throughout the regulation and rule.	applicable local and state requirements regarding size and throughput. These regulations also do not allow community composting operations to be in violation of any local franchise agreement. Nothing in the regulations prohibits a jurisdiction from having more stringent requirements, such as requiring reporting. Regarding the comment that "this is contradictory to other requirements throughout the law that require jurisdictions to report on all diversion activities including community composting", there is nothing in the regulations that requires jurisdictions to report on all diversion activities.
6495	Transcript Part 2 6495 (Foster, C., City of Oceanside)	That also goes, that also speaks to the other issue that I'm struggling with, our city is struggling with, is the physical space waiver. It's really interesting, this rule is extremely prescriptive everywhere else. And overly prescriptive, that is the general comment throughout our letter. But in regards to the physical space waiver, I can tell a business they have to put a can next to every trash and recycling inside their business, they have to label it such and such, et cetera. They have to do A, B all the way through Z. But if they claim they have a physical space waiver, they can get out of everything. And I'm a coastal city, probably over 50 percent of my generators would qualify under this physical space waiver. And when I look at having to fund the staffing and the infrastructure systems for this regulation, I can't do that if half my ratepayers are now exempt from these regulations just because their building was built in 1920, which is a significant portion of our buildings in our agency.	Since it is a jurisdiction provided waiver, a jurisdiction can set more stringent criteria in administering the physical space waiver. CalRecycle rejects the assumption that a significant number of generators could demonstrate legitimate physical space constraints. According to jurisdictions with similar space constraints waivers, very few businesses can demonstrate the existences of space constraints that cannot be addressed. There are few instances where a business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers are downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). This waiver intends to allow flexibility for businesses with legitimate and cost-prohibitive space constraints without compromising the state's ability to achieve the organic waste reduction targets. In regards to levying fees jurisdictions should consult their city or county counsel on how to appropriately structure fees. CalRecycle has not included implementation standards or minimum documentation requirements to allow jurisdictions set appropriate criteria. Jurisdictions, not haulers, administer the waiver, so the physical space waiver will not result in a race to the bottom in nonexclusive service areas. A hauler, licensed architect, licensed engineer, may provide evidence that a premise has a legitimate space constraint. If a jurisdiction has concerns about haulers in nonexclusive service areas, they can opt not to issue waivers or use a qualified source other than a hauler to demonstrate lack of adequate space for separate organic waste containers.
6496	Transcript Part 2 6496 (Foster, C., City of Oceanside)	And lastly, I must reiterate, similar to what John Davis was saying earlier, Article 3, the collection section, is extremely difficult to navigate and understand. We're really struggling with the concept of, really, the opportunity we're looking at is a fourth cart or a split cart. If I was to pursue those opportunities, I might as well throw our Climate Action Plan, Transportation Emission Reductions away because I'll have to add a whole new collection vehicle. I have to add new carts, new systems out there. We were looking forward to using the yellow bag program, but I also do not like the idea of telling my generators to throw the yellow bag of food waste into a landfill bin. And so, there is confusion as to whether we could do a yellow bag program in our green waste or our blue recycling cart. I'm aware -- unsure it's why we can't do that, if we can do it in the landfill bin. So, thank you.	The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures. CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags. The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility. It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City. Nothing precludes a facility from specifying the type of resins and products the facility will accept.

Comment Number	Received From	Question/Comment	Response(s)
			<p>The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
6497	Transcript Part 2 6497 (Ozorak, E., Sacramento County)	<p>And my question has to do with Section 18984, which has to do with identifying organic waste generators and then the definition that needs the person responsible for the initial creation of the material. And in our county, we have about 40,000 registered businesses. In our inspection regime, we have about 18,000. And the number of customers that actually have waste collection service aggregated between three haulers, three or four haulers is about 7,000. So, when we're talking about enforcing, understanding these regulations, on enforcement would really apply to the 40,000 generators. So, some clarifying language would be useful. Because under 1 it says: Subscribing to and complying with the requirements of service or self-hauling So , the language should allow for joint sharing or, obviously where you've got multiple tenants in one as opposed to, you know, verifying service for 40,000 generators. Thank you.</p>	<p>Comment noted. SB 1383 allows a local jurisdiction to charge and collect fees to recover the costs incurred in complying with the regulations.</p> <p>A change to the regulatory text is not necessary. A compliance review does not require a physical inspection of each commercial business that is subscribing to collection service. This was intended to be a desk review of all garbage accounts within the jurisdiction and to verify collection service. Businesses that generate less than two cubic yards of solid waste and produce organic waste are excluded from this requirement.</p>
6498	Transcript Part 2 6498 (Noble, D., Association of Compost Producers)	<p>Most of my comments, now, are on Article 11, but that's really tied in to Article 12, the procurement regulations. But capacity building, again, I want to reinforce the notion that capacity isn't just, in our mind, production capacity. Because in a private sector business you would never build production unless you had a market. These regulations, because we're diverting from landfills, we're creating production capacity assuming that somehow the local jurisdictions will take care of the markets. Unfortunately, every player in this industry does not have access to all the markets. It depends on what products they're making. So, to Julia Levin's point, not only do we have compost, we do have mulch, and chip and grind material. We also have biofertilizers, which are organic fertilizers made from bioresource feedstocks. We also have biochar, which is made from a totally different process, as Julia pointed out. All of us are competing in the same market space. In addition, you have food recovery, which can go to animal feed, which goes to the AG markets, which have their own residuals. So, I think we have to look at this regulation in the context of local markets. Every county has more or less urban versus rural. So, I don't know, necessarily, how you put it in the regulations. One of the best ways to highlight the notion that you have to balance supply with demand capacity is just to define capacity as balanced supply and demand. The idea is to get profit, is to have more demand than you have supply. Otherwise, you're going to lose money. So, that's part of the triple bottom line. Also, there's a whole planning process which came through -- you know, was initiated in AB 876, which looks like it's being folded into Article 11. I don't know if that's on purpose, or it's assumed but -- it is assumed.</p>	<p>CalRecycle understands that capacity building recycling ultimately depends on the availability of markets for the products of any new capacity. However, estimating how much capacity is needed to handle the amount of organics generated in a jurisdiction or region is dependent on organic waste generation not market availability. In addition, there is no need for a new definition as proposed. CalRecycle already defines organic waste in Section 18982(a)(46) and further delineates how this applies to the capacity planning requirements in Section 18992.1.</p> <p>Also, CalRecycle cannot expand the universe of organic waste to include materials that are not landfilled and thus are outside the scope of SB 1383. However, CalRecycle has already worked with the Governor's Office of Planning and Research to include capacity planning and related issues into the General Plan Guidelines (https://www.calrecycle.ca.gov/organics/slcp).</p>

Comment Number	Received From	Question/Comment	Response(s)
6499	Transcript Part 2 6499 (Noble, D., Association of Compost Producers)	Okay, so I have these in writing. But the question is, is how much gets written into the regs as a pointer versus how much are you expecting to happen by the local industry on the back end.	The requirements in regulatory language are enforceable and are to be complied with by the appropriate entities.
6500	Transcript Part 2 6500 (Edgar, N., CA Compost Coalition)	I'm on behalf of the California Compost Coalition, some questions about the collection, cart colors, yellow bag programs. I think the examples you've provided maybe don't show the full range of flexibility that are available and entail. I know there are existing programs where there are green or yellow inserts into existing grey and black bins. Those programs probably need to be considered as part of future options. Also, as has been mentioned, loose-in-the street collection is a pretty prevalent practice in the State and is not considered in the regulations, and should be. And then, in several sections of this article there are references to green carts, in particular with the collection frequency waivers and other sections, it doesn't have any recognition of the yellow cart. So, clearly, a separate item that should be subject to the same limitations.	<p>CalRecycle revised Sections 18984.1, 18984.2, 18984.3, and 18984.5(b)(1)(B) 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 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 year-round to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; 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.</p> <p>This revision necessitated another change to Section 18984.5 to modify the contamination monitoring education requirements, since there would not be a container available to place educational materials on for routes that are exceeding contamination levels. Recommend adding "or door" after the term "container" in section 18984.5(b)(1)(B) to allow for notification in areas where non-containerized loose in the street collection is utilized.</p> <p>Thank you for the comments in support of the language change that was made in response to concerns about green waste loose on the street. The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome. CalRecycle responded to</p>

Comment Number	Received From	Question/Comment	Response(s)
			stakeholders who initial had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic.
6501	Transcript Part 2 6501 (Edgar, N., CA Compost Coalition)	And then, lastly, as other folks have mentioned, I think there needs to be some future process whereby, as my good friend Rachel Oster said, the success of this program is robust, and people are -- birds are singing in the trees, if they haven't been wiped out by global warming. And operators may be able to reduce the frequency of route reviews and other practices. There should be some sort of end-of-life where mature, successful programs that have proven compliance can reduce alot of the busy work.	Depending on the success of these proposed regulations, CalRecycle may consider future rulemaking to address needed revisions and perhaps relax certain standards if necessary.
6502	Transcript Part 2 6502 (Boskovich, A., Alameda County Community Food Bank)	But also want to reiterate a couple of points that our association has made, which is that we are in strong support of the capacity planning process outlined in Article 11. However, we really want to ensure that food banks continue to be partners. And we'd like that language strengthened in the fact that as counties and jurisdictions are doing those internal assessments that food recovery organizations, like food banks, are not considered after the fact. We want to be at the table early on and we'll want to give credit to our partners locally, like StopWaste, like the Cities of Livermore and Oakland, who are already beginning to engage us. One of these we constantly hear is there's a lot of cross-informing that needs to happen. And so, you know, we don't want our government officials to do all this work only to have us say, actually, you missed some really huge components and we need to go back to the drawing table. There's a fast time, I understand.	Section 18992.2 states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. It is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations which includes local food banks.
6503	Transcript Part 2 6503 (Boskovich, A., Alameda County Community Food Bank)	The other piece of this is we also strongly support the process around having clear implementation schedules. But we have to reiterate that we need a prioritization of the actual cost to recover food safety. Food safety is imperative. And costs that maybe are typically overlooked, like transportation, fuel, cold storage, all the roots of food safety standards cannot be overlooked. Administrative support cannot be overlooked. A food bank of ours, which we have over 100 staff and over 200 community-based organization partners, 50 percent of those 200 partners are 100 percent volunteer run. So, everything from the thermal gun to an experienced driver. If we're to meet the State's goals around food recovery, we need to be able to do so with true and accurate capacity.	CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed. CalRecycle would also like to clarify that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing specifications in their contracts or written agreements with commercial edible food generators. For further clarification, please refer to the FSOR.
6504	Transcript Part 2 6504 (Heaton, S., Rural County Representatives of California and the Rural County	So, I wanted to specifically address Article 11, Section 18992.2, and I'll be brief. So, we realize that, you know, local solid waste managers are our partners in achieving edible food recovery goals and that it's rational to include an education and outreach competent to the food recovery program, and for us to assist in providing access to the organizations and services available to generators. And that monitoring and compliance adds significant staff time and costs. And we recognize	A change to the regulatory text is not necessary. The regulations do not require that this be carried out by the solid waste management organization. The jurisdiction will have to determine who within its organization will implement this provision.

Comment Number	Received From	Question/Comment	Response(s)
	Environmental Services Joint Powers Authority)	that and understand the necessity to be able to measure achievements. But we believe that it's really beyond the scope and capacity of our solid waste managers to increase and fund edible food recovery capacity because of our constraints. So, thank you.	
6505	Transcript Part 2 6505 (Boone, A., Center for Recycling Research)	The idea of leaving the discretion of what you're going to do with materials to the local government is a very scary process. Because recycling was absolutely the last thing on everybody's mind.	A change to the regulatory text is not necessary. The comment does not suggest specific changes but disagrees with the concept of having local government be responsible for what happens to collected materials. SB 1383 requires CalRecycle to adopt regulations that place responsibility on jurisdictions.
6506	Transcript Part 2 6506 (Boone, A., Center for Recycling Research)	The second point has to do with the use of the term waste to refer to source-separated organics. I've had a couple of potential clients scared away from setting up collection systems to move source-separated organics to the East Bay MUD facility.	Comment noted. Commenter is not recommending a change to the regulatory text.
6507	Transcript Part 2 6507 (Boone, A., Center for Recycling Research)	So, I think it's really important to leave the market open to encourage people to set up these kinds of managements. Waste Management chose not to contract with East Bay MUD to haul the organics to that facility. That has never been discussed. But the fact that it's called a waste scares away people who want to argue about that.	Comment noted. Commenter is not recommending a change to the regulatory text.
6508	Transcript Part 2 6508 (Brown, K., California Alliance for Community Composting)	Community composting, I just want to clarify it's not really getting a blank slate under SB 1383. This is just clarifying the role of a supplemental role that we can play in meeting the State's goal for capacity. So, what we would like to do to build confidence in not only jurisdictions, but also the State, is suggest that there be additional amendments made to Title 14, Chapter 3.1, on composting operations regulatory requirements. In our written comments we actually submitted, we said we'd like to see a published list of best management practices for community benefit composting and micro composting. This can be recommended voluntary self-assessment, or it could be a voluntary State certification program in an effort to alleviate local regulatory concerns and inconsistencies across jurisdictions and State agencies. We've seen that done in other states.	Publishing a list of best management practices may be worthwhile but can be accomplished by the organization or the state outside of these regulations. The suggestion to establish a voluntary self-assessment or state certification program to alleviate local regulatory concerns would be counter to the provisions in Section 17855, which state that persons are obligated to obtain all licenses, permits, etc.
6509	Transcript Part 2 6509 (Brown, K., California Alliance for Community Composting)	And then, also to reemphasize that the micro hauling option of community composting can also be supplemental to a jurisdiction's large scale hauling programs, and we've seen that be successful in other states.	The terms community benefit composting and supplemental on-site compost are not used in the regulation. This comment proposes to add the definitions of 'Community Benefit Composting' and 'Micro-composting' to Article 1, thereby creating two additional categories of composting that do not reference the size and volume limitations of Section 17855(a)(4). The proposed terms for these two activities would expand the suite of activities that are not excluded from regulatory requirements. CalRecycle is not proposing amendments to the compost size thresholds in Section 17855, therefore the comment is not germane to the text CalRecycle is adopting or amending. The existing exclusion thresholds were thoroughly vetted and subject to stakeholder comment in a previous rulemaking amending those standards. No change to the regulatory text is necessary to specifically mention community composting because Section 18990.1(b) establishes that a jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that would prohibit the lawful processing and recovery of

Comment Number	Received From	Question/Comment	Response(s)
			organic waste. Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
6510	Transcript Part 2 6510 (Brown, K., California Alliance for Community Composting)	And so, if there were -- are definitely concerns about quality control and rate structures, that some set of best management practices and also working in tandem with the jurisdictions can help alleviate a lot of those concerns.	Comment noted. CalRecycle acknowledges the benefits associated with community-scale composting and included provisions relative to such activities in the regulations in response to prior stakeholder comments. Jurisdiction should be aware of community composting activities. Additionally, since community composting is a method for recovering organic waste, such as food and green waste, it is worthwhile to still determine how much can be handled through these activities.
6511	Transcript Part 2 6511 (Oseguera, A., Waste Management)	In terms of the mentioning of looking at route reviews, education and outreach, and then I think a concerning area is that there's a May Statement to Notice. So, in terms of having a holistic program, if there is, you know, the route reviews and analysis, there is the education and ongoing outreach, then there should be a will statement to the notice.	A change to the regulatory text is not necessary. The comment does not specify where a change to "will" is needed. The comment appears to be about Section 18984.5 re: container contamination minimization, which includes provisions that jurisdictions must implement. If the comment is about changing 18984.5(b)(1)(B) re: the notice "may be left", CalRecycle disagrees; the provision is written to provide flexibility in how the notice is given to the generator. The comment may also be about Section 18985.1, but it is unclear what part of this section.
6512	Transcript Part 2 6512 (Oseguera, A., Waste Management)	And the State encourage and provide examples throughout the State as what's working in terms of those notices. Is it a warning system? Is it a warning system with something that's punitive? Or, how do you address the contamination?	A change to the regulatory text is not necessary. CalRecycle will provide examples of what is working well with container contaminant minimization in other jurisdictions.
6513	Transcript Part 2 6513 (Oseguera, A., Waste Management)	And in terms of AB 1383, we have to ensure that the feedstock that we get into the facilities is something that's usable. If we produce a very low-quality compost or other products, where will the markets be for that material if no one wants it?	A change to the regulatory text is not necessary. CalRecycle agrees that producing low-quality compost or other products is not desirable. The regulations are designed to ensure that feedstock produces marketable products.
6514	Transcript Part 2 6514 (Oseguera, A., Waste Management)	So, once again encourage that, yes, we're going to have route reviews, we're going to have education and outreach, and continually, but also making sure that that last portion is also a will statement. So, thank you.	A change to the regulatory text is not necessary. The comment does not specify where a change to "will" is needed. The comment appears to be about Section 18984.5 re: container contamination minimization, which includes provisions that jurisdictions must implement. If the comment is about changing 18984.5(b)(1)(B) re: the notice "may be left", CalRecycle disagrees; the provision is written to provide flexibility in how the notice is given to the generator. The comment may also be about Section 18985.1, but it is unclear what part of this section.
6515	Transcript Part 2 6515 (Goncharoff, T., Santa Cruz County)	I wanted to speak to the 2014 benchmark year. For those of us who are early adopters, this is an issue in regard to organic waste diversion. But even more so in regard to food rescue. Santa Cruz County had the very first food rescue program in California. It's still one of the largest, most robust and successful programs. It's been operating since 1972. And using 2014 as the benchmark year means that more than 4,000 tons of food rescued annually will not count. And the ironic result of that is that one of the more successful programs in this State may appear to be in noncompliance. And I'm sure that's not your intention. I suggest a simple fix. You might add to the regulations a provision that those jurisdictions that had program	Some commenters misinterpreted the edible food recovery goal to be measured using 2014 as the baseline year. To clarify, unlike the organic waste disposal reduction targets, SB 1383's statute does not specify a baseline year for measuring the amount of currently disposed edible food. As a result, the baseline measurement year for edible food will not be 2014. More recent data from CalRecycle's 2018 waste characterization study will be used to measure the edible food baseline. These commenters also misinterpreted the statewide requirement to recover 20% of currently disposed edible food for human consumption by 2025. They interpreted the requirement to be that each jurisdiction shall recover 20% of currently disposed edible food for human consumption by 2025. This interpretation is incorrect. To clarify, the 20% edible food recovery goal is a

Comment Number	Received From	Question/Comment	Response(s)
		prior 2014 could appeal to have those totals included in a total amount of food rescued being calculated. Thank you.	statewide goal that the California must collectively achieve. Individual jurisdictions will not be penalized for failure to recover at least 20% of currently disposed edible food.
6516	Transcript Part 2 6516 (Foster, C., City of Oceanside)	One thing that I'd like to ask CalRecycle for assistance with is do everything you can with this rulemaking to help not make the jurisdictions the bad guy. Okay. And I think there are sections in this rule that really put the burden on the jurisdiction to be the difficult one with our generators and our diversion activities	A change to the regulatory text is not necessary. CalRecycle has prepared various tools that jurisdictions staff can use to educate elected officials, residents, and businesses about the mandates of this state law.
6517	Transcript Part 2 6517 (Foster, C., City of Oceanside)	So, that falls into play a little bit with edible food recovery, as well as community composting is we want to support these activities. We appreciate the fact that this rule is trying to really create space for these opportunities. But one of the issues we're seeing throughout the rule is that there is a significant burden on the jurisdictions for reporting about all of these activities.	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.
6518	Transcript Part 2 6518 (Foster, C., City of Oceanside)	However, it's not very clear on the reporting requirements for these types of activities. So, for example, in edible food recovery you require recordkeeping by edible food recovery generators and services. However, there's nothing in there to say that they need to provide those records to the jurisdiction that's being required to report on these activities to the State. And I've been a Chair of The Food Policy Council for the next -- for the last four years. And there's actually a lot of privacy within the edible food recovery space and within the feeding agency space. So, when a jurisdiction goes to these agencies and services and asks what are you doing, there's not an open arm tendency to provide the information that they do have.	The regulations specify that food recovery organizations and services are subject to inspection, and since an "inspection" is defined in Section 18982 to include the review of applicable records, food recovery organizations and services 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 food recovery services' and organizations' compliance with Section 18991.5.
6519	Transcript Part 2 6519 (Foster, C., City of Oceanside)	so what we're asking is help us support these agencies, help us be able to provide the information you require in the reporting by making sure that you clarify that community composting, edible food recovery is required to provide those records and documents for activities to jurisdictions per their request or, maybe at minimum, on an annual basis. That will help us support them and our community. Thank you.	The regulations specify that 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 then provide jurisdictions with access to their records upon request by the jurisdiction. A failure to provide such access to records may be considered a failure to maintain records. Maintenance of and providing access to the records that are required is necessary in order for jurisdictions to be able to monitor commercial edible food generator compliance as is required in Section 18991.1 (a)(3).
6520	Transcript Part 2 6520 (Beniwal, B., Californian's Against Waste)	We see two potential issues in this section. First, we see potential for a loophole, as evidence by France's food waste laws. Currently, there's a mandate for generators to have a written contract with food recovery services and organizations, but not actually done the food. So, this has been seen for the past two years in France, through anecdotal evidence where generators can donate, you know, even as little as one percent of the food that would be disposed of. So, we recommend, you know, looking through the wording of this and making sure that there's some sort of minimum set.	CalRecycle revised the regulatory text in response to this comment. The regulatory text was revised to the following: "Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed." If Section 18991.3(b)'s 'maximum amount' language was not included in the regulations there would be a loophole where commercial edible food generators could for example, recover 1% of their edible food that would otherwise be disposed and still be in compliance. The 'maximum amount' language was added to the regulations to eliminate this loophole for non-compliance and to ensure that commercial edible food generators arrange to recover the maximum amount of their edible food that would otherwise be disposed, which will be critical for helping the state achieve SB 1383's 20% edible food recovery goal.

Comment Number	Received From	Question/Comment	Response(s)
6521	Transcript Part 2 6521 (Beniwal, B., Californian's Against Waste)	Second of all, we would like to see a separation definition for edible food and recoverable food. Specifically, in edible food, the phrase unserved and unsold lowers the baseline of the 20 percent that would need to be recovered. Including, you know, amongst others, food waste generated at home. So, we'd like to see a more inclusive definition. So, you know, that these regulations can be as effective as possible in meeting its many goals including co	<p>In an early draft of the proposed regulations edible food was defined as: “Edible food” means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, “edible food” is not solid waste if it is recovered and not discarded.”</p> <p>Several commenters made the argument that this definition was too restrictive, because it described “recoverable food” not “edible food.” Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters’ concerns about the definition of “edible food” being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following: “Edible food" means food intended for human consumption. (A) For the purposes of this chapter, “edible food” is not solid waste if it is recovered and not discarded. (B) 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. Although the final definition of “edible food” is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities and eliminated the need to provide a separate definition for "recoverable food."</p>
6522	Transcript Part 2 6522 (Schoonmaker, StopWaste)	Okay, here's a question. I can't wait until the next job to find out. So, the first question is about the six tons and the food recovery organizations that accept six tons or more need to, you know, report on which generators. Now, does that mean six tons from tier one and tier two generators, only, or all generators?	<p>Please note, the 6-ton recordkeeping and reporting threshold was removed from the regulations. To help clarify the reporting requirements for food recovery organizations and food recovery services the regulatory text was revised. The revised text clarifies that a jurisdiction shall require food recovery organizations and food recovery services that are physically located within the jurisdiction and contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3 (b) to report the total pounds of edible food recovered (from commercial edible food generators) in the previous calendar year to the jurisdiction. To clarify further, any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators is required to report to the jurisdiction. Specifically, they are required to report (to one jurisdiction) the total pounds of edible food that were collected or received directly from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Regulated food recovery organizations and food recovery services are not required to report the pounds of edible food recovered from entities that are not commercial edible food generators, nor are they required to track or report residual food waste as such a requirement could be overly burdensome and infeasible to comply with. Food recovery organizations and services should have the data on the pounds of edible food recovered from tier one and tier two commercial edible food generators because Section 18991.5 requires them to maintain a record of the quantity in pounds of edible food collected and received from each commercial edible food generator that they contract with or have a written</p>

Comment Number	Received From	Question/Comment	Response(s)
			agreement with pursuant to Section 18991.3 (b). If food recovery organizations and food recovery services are in compliance with the recordkeeping requirements specified in Section 18991.5, then they will have the information that is necessary to comply with the requirement to report the total pounds collected from tier one and tier two commercial edible food generators in the previous calendar year to the jurisdiction.
6523	Transcript Part 2 6523 (Schoonmaker, StopWaste)	The other one is kind of similar which is when the jurisdictions have to provide a list. Now, is that just recovery organizations that accept food from tier one and tier two, or like everything, very comprehensive.	<p>To clarify, the requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and food recovery services operating within the jurisdiction, just that “a list” be created and maintained on the jurisdiction’s website. It is at the jurisdiction’s discretion to determine the food recovery organizations and services that they feel should be included on the list.</p> <p>The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping feed people in need.</p> <p>Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing edible food on a regular basis.</p> <p>To clarify, it is at the discretion of the jurisdiction to determine the method that will be used for maintaining the list (e.g. updating/keeping the list current and relevant). How each jurisdiction’s list is maintained will differ from jurisdiction to jurisdiction.</p>
6524	Transcript Part 2 6524 (Shane, A., California Association of Food Banks)	In terms of Article 9 and I'm sorry, I'm not exactly sure where that is being talked about today, I didn't see it on the agenda. We just want to make sure that it's essential, that it's retained that the acceptance of donations of loads on the recovery side is voluntary. I mean, this is only going to work in that situation, in the sense that we have already-under-resourced nonprofits who are simply not able to take all types of loads.	A change to the regulatory text was not necessary because Article 9, Section 18990.2 (d) specifies that nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator. In addition, nothing in SB 1383's regulations requires a food recovery organization or service to enter into a contract or written agreement with a commercial edible food generator. A food recovery organization or service can choose not to participate.
6525	Transcript Part 2 6525 (Shane, A., California Association of Food Banks)	And again, we think that there is strong structures in place in terms of either self hauling, or working through the jurisdiction process to have that. But those are only -- those structures are only going to work with some very clear language that's here, that must be retained about that voluntary participation.	<p>CalRecycle provided information in the FSOR to clarify that commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery where the contract specifies that the generator is permitted to self-haul edible food during pre-established delivery or drop off times. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off times specified in the contract or written agreement.</p> <p>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 their 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 exact self-haul provisions to include in their contracts or written agreements.</p>

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and food recovery services from donation dumping and unexpected donations. The model agreement is a template that is intended to be customized based on the needs of food recovery organizations, food recovery services, and commercial edible food generators.
6526	Transcript Part 2 6526 (Shane, A., California Association of Food Banks)	We also want to make sure that food recovery organizations are treated different from food recovery services in a couple of ways. One is sort of an overarching point that we know is difficult to land in the language, and so I just want to acknowledge that, but continue our emphasis about the potential for unintended consequences. That as some organizations are able to accept donations, and then repurpose them and sell, even if it's under a 501(c)(3) tax structure of a nonprofit that that is going to create a potential revenue stream that for emergency food organizations who are always going to give that food away to people in need, that that creates a potential imbalance, especially down the road. And again, we understand that the emergency food recovery organizations cannot and should not take all of this edible food. We're not advocating for that by any means. But that dynamic is of a serious concern when food banks and the organizations are already struggling to access enough food to feed hungry people.	Nothing in SB 1383's statute specifies that recovered edible food should first be provided for free to the public for consumption. The statutory goal is that no less than 20% of currently disposed edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.
6527	Transcript Part 2 6527 (Shane, A., California Association of Food Banks)	And we think that there is just no better documentation than the EPA's food recovery hierarchy, right, which very clearly says that the food should go to hungry people. That's obviously not in the statute. But we encourage consideration in the regulations about donations for free or for people in need. There's several in which we've provided examples for how to get to that.	Nothing in SB 1383's statute specifies that recovered edible food should first be intended for food banks, soup kitchens, or shelters. The statutory goal also does not specify that recovered food must go to hungry people. The statutory goal is that no less than 20% of currently disposed edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.
6528	Transcript Part 2 6528 (Shane, A., California Association of Food Banks)	And then, finally, on the data reporting, I know that's formally later, but it did come up a bit in the presentation, I just want to acknowledge that we have -- we asked for the six-ton requirement. It was put in place. And now, we're asking for something else. And I'm sorry that we are changing midstream. But it just -- you know, in full transparency for all the stakeholders in the room, I was unfortunately given some inaccurate information from one of our member food banks. And upon further consultation, and I just want to respond specifically to the very valid point, I believe by the presenter from -- the comment from Oceanside that there are serious privacy concerns.	The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance. To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold from the regulatory text. The final regulations require a food recovery organization or a food recovery service that has established a contract or written agreement to collect or receive edible food

Comment Number	Received From	Question/Comment	Response(s)
			<p>directly from commercial edible food generators, pursuant to Section 18991.3 (b) to maintain records of the food they receive from those generators.</p> <p>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 the 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% edible food recovery goal. 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. Regarding the comment about privacy concerns, CalRecycle would like to clarify that SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p>
6529	Transcript Part 2 6529 (Shane, A., California Association of Food Banks)	<p>And that there are MOUs with donors that occur, actually not just in California, but across the country in how food banks secure donations from several types of what we call generator or donators, donors that prevent the sharing of donor level data. And that we are really asking for a different approach that acknowledges that if there is the need for a jurisdiction to verify some potential discrepancy or an evaluation toward the 20 percent goal that the data are largely held, especially by organizations that are taking large amounts of material. But we need to design the regulations in a way that's not going to be disruptive. And it's in some ways impossible for food recovery organizations to provide. And it sounds like there's already some issues in the field. And so, I think that we can come together and figure that out. But as written, it's unworkable. And I just want to apologize from our own contribution to that, the way it's written.</p>	<p>CalRecycle would like to clarify that SB 1383's reporting requirements do not violate donor confidentiality and the regulations also do not require individual donor level data to be reported. There is no requirement in SB 1383's regulations mandating food recovery organizations or food recovery services to report donor names or the pounds recovered by donor. Please note however, that regulated food recovery organizations and services are required to maintain records of the food that is recovered from the commercial edible food generators that they have established a contract or written agreement with pursuant to Section 18991.3 (b).</p> <p>To clarify the reporting requirement, regulated food recovery organizations and services are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p>
6530	Transcript Part 2 6530 (Shane, A., California Association of Food Banks)	<p>Finally, I just want to reiterate, but because it came up again, my comments earlier this morning is that the State's only going to be able to meet its goals if jurisdictions, and generators, and food recovery organizations have the ability to come together and figure out the resources and the capacity necessary to move this food. It's simply not going to move itself, certainly not in a food safe manner. And so, I just strongly want to encourage the language we retained there.</p>	<p>A change to the regulatory text was not necessary because this comment is in support of SB 1383's edible food recovery capacity planning requirements.</p>
6531	Transcript Part 2 6531 (Larrowe, K., Alameda County Food Bank)	<p>And so, piggy-backing a little bit off of Andrew, but really strong support of separating edible food and recoverable food. I think we see this all the time in the field where a generator will have a donation for the day, but in theory that might be ready to eat that day, but three days later when our agency has distribution it's no longer edible. So, it's edible on the day that you might pick it up, but it's not</p>	<p>In an early draft of the proposed regulations edible food was defined as: "Edible food" means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, "edible food" is not solid waste if it is recovered and not discarded."</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>technically recoverable because we can't actually distribute it. And then, taht ends up putting the cost on our agencies, which Alex mentioned earlier 60 percent of them are all volunteer run. And so, many of them are now having to pay more for compost, or other ways of disposing of the product. So, really looking for separation between those two definitions.</p>	<p>Several commenters made the argument that this definition was too restrictive, because it described "recoverable food" not "edible food." Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters' concerns about the definition of "edible food" being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following:</p> <p>"Edible food" means food intended for human consumption.</p> <p>(A) For the purposes of this chapter, "edible food" is not solid waste if it is recovered and not discarded.</p> <p>(B) 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.</p> <p>Although the final definition of "edible food" is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities and eliminated the need to provide a separate definition for "recoverable food."</p>
6532	Transcript Part 2 6532 (Larrowe, K., Alameda County Food Bank)	<p>We're in very strong support of contracts, so thank you for having that in there. We think that that will help just provide insurance that if we're in a contract with a generator, no one else can swoop in and take over that relationship. And so, we appreciate that and hope that stays in.</p>	<p>A change to the regulatory text was not necessary because this comment is in support of the requirement for commercial edible food generators to establish contracts or written agreements with food recovery organizations and services.</p>
6533	Transcript Part 2 6533 (Larrowe, K., Alameda County Food Bank)	<p>And lastly, we are hoping that the reporting pieces for -- or, reporting and collecting pieces for food recovery organizations and food recovery services can be more defined. So, the way we understand it is that if you're picking it up, you have to weigh and record in-transport and once it's collected. And so, as a food bank, we do a lot of the collection, but it goes to our member agencies versus a strictly transportation service for food recovery. So, we kind of do both and that would be very onerous for us to have to weigh for transport and for collection. So, hoping there could be some separation between specific transportation agencies and ones like food banks, who do kind of all of those services.</p>	<p>To help clarify the reporting requirements for food recovery organizations and food recovery services the regulatory text was revised. The revised text clarifies that a jurisdiction shall require food recovery organizations and food recovery services that are physically located within the jurisdiction and contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3 (b) to report the total pounds of edible food recovered (from tier one and tier two commercial edible food generators that they have established a contract or written agreement with pursuant to Section 18991.3 (b)) in the previous calendar year to the jurisdiction.</p> <p>To clarify further, any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators pursuant to Section 18991.3 (b) is required to maintain records and report to the jurisdiction. Specifically, they are required to report (to one jurisdiction) the total pounds of edible food that were collected or received directly from the commercial edible food generators that they contract with or have written agreements with.</p>
6534	Transcript Part 2 6534 (Hilton, R., HF&H Consultants)	<p>You've heard a couple of comments about the contracts required with the food rescue organizations. It's very much the case that some organizations that collect the material want those and some very much don't. And you should think about whether there are other forms of demonstrations. Sort of the point CAW made, we want the stuff to get rescued. We don't care about the arrangement, necessarily, by which it's being rescued. And so, if there's some other demonstration that the</p>	<p>A change to the regulatory text was not necessary for the following reasons. First, having a contract or written agreement with supporting documentation of the contract or written agreement is critical for enforcement purposes and to ensure that edible food is recovered in a safe, professional, and reliable manner. Contracts and written agreements add a layer of food safety, professionalism, and reliability into food recovery and can serve as a mechanism to help to</p>

Comment Number	Received From	Question/Comment	Response(s)
		business is donating and doing the thing, even if there isn't a formal contract setting out the terms of that, that may be helpful, or if there's some other arrangement demonstration that you'd be okay with.	protect food recovery organizations and services from receiving foods they do not want and also can help prevent donation dumping. CalRecycle would also like to clarify that only tier one and tier two commercial edible food generators are required to contract with or have written agreements with food recovery services or organizations that will accept their edible food for food recovery. The expectation is that jurisdictions verify that each contract or written agreement has been established. To help jurisdictions monitor compliance, the regulations include recordkeeping requirements for commercial edible food generators and for food recovery organizations and services. A jurisdiction could use the record to verify that a commercial edible food generator has established a contract or written agreement with a food recovery organization or service by requesting to see their records.
6535	Transcript Part 2 6535 (Hilton, R., HF&H Consultants)	One of the concerns that we've heard from franchise haulers, in negotiations, is that they believe this material is within the scope of their exclusive franchises, even though it's for human consumption. And I think we should clarify that because for nonprofits, that are not charging for their service, I think the Rancho Mirage decision gives us a clear pathway for that material to escape the franchise.	Some commenters have suggested that there are franchise haulers that believe edible food is within the scope of their exclusive franchises. Please note, in the regulations the definition of edible food specifies that edible food is not solid waste if it is recovered and not discarded.
6536	Transcript Part 2 6536 (Hilton, R., HF&H Consultants)	However, there are a number of services that are charging for the collection and we want to stimulate sustainable funding for these folks, right. So, we want folks to have an enterprise model where they charge. If the franchisee believes that that's their material, we may not be able to allow others to charge. So, it would be great if the regulations could provide some clarity that this is not solid waste. It's not organic materials destined for compost. This isn't discarded. This is for a productive use. That would be helpful to us.	Some commenters have suggested that there are franchise haulers that believe edible food is within the scope of their exclusive franchises. Please note, in the regulations the definition of edible food specifies that edible food is not solid waste if it is recovered and not discarded.
6537	Transcript Part 2 6537 (Hilton, R., HF&H Consultants)	The biggest thing that we've noticed in looking at this is that these are regional programs. They span jurisdictions, they span counties. And so its overly challenging for a city, in a county, to manage everything you're asking them to do and there will be a lot duplication. Not in the capacity planning, but in the reporting about what the food recovery organizations are doing. And so, the extent to which you can bring this up, maybe even to a State level, would really help. Because I think the duplication is going to be frustrating to the food service organizations that are responding to multiple agencies asking for the same stuff.	Section 18994.2 includes the reporting requirements for food recovery organizations and food recovery services. Only food recovery organizations and food recovery services that contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3 (b) are required to report the total pounds collected in the previous calendar year to the one jurisdiction that they are physically located in. To clarify, a food recovery organization or service that has established a contract or written agreement with a commercial edible food generator should only be reporting to one jurisdiction. That is, the jurisdiction that where the organization's or service's primary address is physically located. Therefore, duplicate reporting should not occur. CalRecycle also recognizes that food recovery operations can span regions. However, there is still a critical need for jurisdictions to be able to review records and receive reports of the total pounds recovered from commercial edible food generators in the previous calendar year. For a jurisdiction to implement an effective edible food recovery program it is critical that the jurisdiction is familiar with the regulated food recovery organizations and food recovery services operating in the jurisdiction, and also aware of the pounds recovered from tier one and tier two commercial edible food generators. Receiving reports from regulated food recovery organizations and services can also be used to help jurisdictions 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.

Comment Number	Received From	Question/Comment	Response(s)
6538	Transcript Part 2 6538 (Hilton, R., HF&H Consultants)	And then, I think you need to think about incompatible materials with donation, the same way we are with recycling and composting. There are materials that the food service organizations don't want. Unhealthy stuff, stuff that's, you know, at a certain age, whatever. And so, I think there needs to be some understanding of that in this language and some permission to do other things with that material. So, thank you.	SB 1383's statute requires CalRecycle to adopt regulations that 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. The statute does not state that 20% of healthy or nutritious food must be recovered. The statute requires that 20% of all currently disposed edible food be recovered by 2025. As a result, SB 1383's regulations do not include requirements that differentiate between healthy and unhealthy food. CalRecycle recognizes however, that a core value of many food recovery organizations and services is to reduce food insecurity in their communities by rescuing and distributing healthy and nutritious food to help feed people in need, and that some organizations have nutrition standards for the food they are willing to accept. As a result, CalRecycle included language in Section 18990.2 that states, "(d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator." Therefore, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from following their own internal standards and requirements for acceptance related to nutrition or quality of the food when it is recovered.
6539	Transcript Part 2 6539 (Boone, A., Center for Recycling Research)	I've been involved in a lawsuit regarding a mixed waste processing facility being erected in San Leandro, California. The proposer said that they would get up to 61 percent diversion at this facility. They said that they didn't see exactly how this would all be related to their proposal. The remnant organic materials suggests as much as I understand it, that there will be organic materials which will be included in the material that will be carried over to the transfer station. And then, there will be organic materials that will be fed into the composting operation on the property or trans/shipped outward for composting. So presumably they should be keeping records of how much organics is not being captured in the separation system, so that what we know that goes to the transfer station is in fact a low-end organics. That's my understanding of what you're saying, but I'm not sure I got that right. So, I just want to make sure that I know what that means.	Comment noted. Remnant Organic Material is organic waste that is in the gray container of a three-container collection system. Organic waste is prohibited from being placed in the gray container, but in the event that organic waste is present, facilities can remove the organic waste from the container and send it out for recovery with their Source Separated Organic Waste Stream once that waste stream has been sampled/measured.
6540	Transcript Part 2 6540 (Pardo, V., California Refuse Recycling Council)	We interpret the source-separated organic waste to mean the material that is in the green or yellow container, as described, not the material that you would find in the blue container. And your images showed a very beautiful picture of green and food waste, as demonstrated for the source-separated organic waste. So, that is our interpretation that the protocol, this isn't in regards to mixed organics, but the source of greater organic waste would be for that green or yellow container in those cases.	This comment describes the commenter's interpretation of regulatory requirements and does not suggest a language change or comment on the regulatory process that was followed.
6541	Transcript Part 2 6541 (Pardo, V., California Refuse Recycling Council)	And I'd also like to point out that onsite transfer of material -- this kind of goes back to some of the conversation we had with AB 901. You're going to have facilities that are going to be receiving source-separated organic wastes at a transfer processing facility that might have an anaerobic digestion facility onsite. So, the expectation would be that you're not going to be sampling and measuring the material that you're sending to yourself. So, we'd ask that that material not be subject to the measurement protocols if they're keeping that material onsite. Thank you.	CalRecycle has revised the proposed regulations in response to comments. The change added Section 17409.5.10.5 to address co-located facilities or operations. The change was necessary to clarify when the measurement protocol is required to be completed if two activities are co-located. Section 17409.5.10.5 requires the measurement protocol to be performed by each activity even if the material from the first activity is sent to the co-located activity, if the facility as a whole sends more than 20% of organic waste to disposal on and after 2022 and 10% on and after 2024. However, if the facility as a whole sends less than 20% of organic waste sent to disposal on and

Comment Number	Received From	Question/Comment	Response(s)
			after 2022 and 10% on and after 2024, then the operator would not be required to perform the measurement protocol on the material sent to the co-located activity, only the material sent off-site.
6542	Transcript Part 2 6542 (Green, S., Sanitation Districts of Los Angeles County)	So, in a couple of different places in the Article 6, in Title 14 regulations it appears when you are defining what are allowed management methods, that you're saying - like, for instance, with the biosolids, they may only go to these types of things. And it's kind of the word only that makes it seem like it's a kind of implicit ban on landfilling. And then, there's the exception and you pointed this out in your presentation. Our concern, though, is that there may be other circumstances that may necessitate a need to send material for disposal, whether it's from a MRF, organic material received there, or from -- or our biosolids. There could be things that aren't strictly meeting those conditions that you mentioned, such as new regulatory standards that come into being, that we can't meet and we have to -- it may take us time to be able to. So, that's one example.	CalRecycle has noted the comment. The effects of possible future regulations are not within the scope of this rulemaking.
6543	Transcript Part 2 6543 (Green, S., Sanitation Districts of Los Angeles County)	And then, another area we wanted to just highlight is about the load-checking requirements. And while we understand the desire to minimize the contamination and collect a lot of detailed data, it seems like some of the requirements are overly onerous and will significantly impact our facility's ability to operate. So, we do appreciate the ability for the enforcement agency to approve alternative measurement protocols, but we also think there are some changes to the regulations themselves that would be helpful. And, so there's -- for instance, there are certain instances where load-checking would be pretty impossible, like preprocessed organic waste or where you have a very consistent waste stream it may not really be warranted. And then, also, there's often space constraints in some of our facilities and it would be difficult to do multiple daily load-checks.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 14709.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
6544	Transcript Part 2 6544 (Green, S., Sanitation Districts of Los Angeles County)	Section 20700.5. And then, the last issue we wanted to comment on is that the requirement for the long term intermediate cover for the 36 inches of cover, seems excessive to us. We don't think it's necessary. We think that the existing requirements, you know, to prevent emissions, as well as to maintain the cover requirements to prevent nuisance and so forth are already well defined and are sufficient. And so, we would like to see those changed. We do appreciate that there is that ability for the enforcement agency to approve an alternative, but there's kind of no indication of what would be the criteria for doing that. And so, that's -- you know, it doesn't give us a lot of comfort because we don't really know how that will be decided. Thank you.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.
6545	Transcript Part 2 6545 (Potashner, E., Recology)	To echo the LA Sanitation District's concern around the load checking, Recology operates a number of compost and transfer stations throughout the State. And our waste stream is pretty consistent. It's the same local jurisdictional programs. Some large distribution centers around grocery are coming into our facilities. That feedstock is consistent from day to day. The frequency that	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 14709.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container

Comment Number	Received From	Question/Comment	Response(s)
		these regulations require us to do the load-checking is something that we'd ask gets revisited. We believe something along the lines of a weekly load check for our waste stream would probably still get you the data that you need and make sure that the facilities are complying with the spirit of this regulation.	waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
6546	Transcript Part 2 6546 (Foster, C., City of Oceanside)	I want to reiterate the fact that for biosolids management, we'd like it to not be limited to anaerobic digestion or composting. We really want CalRecycle to incorporate language that allows us to consider other technologies and future technologies that would result in diversion from landfills.	Composting and anaerobic digestion of biosolids are required because CalRecycle determined the restriction necessary to ensure methane reduction.
6547	Transcript Part 2 6547 (Foster, C., City of Oceanside)	The caveat you state about you require a landfill, if there is an expansion, that they would need to incorporate organic recovery into their facility, if I'm reading that slide correctly. But you don't qualify an expansion as being hours. So, if a landfill was to expand their number of hours for accessibility, wouldn't that qualify as additional access to land-filling?	A change to the regulatory text is not necessary. Yes, expanding the hours would allow for more access to the landfill, but it does not increase the tonnage of solid waste that the facility is permitted to receive or the overall capacity of the facility. So for the purposes of this section, increased hours of operation do not considered an expansion. Section 20750.1(c) defines the term "expanding" which means a solid waste landfill proposing to make a significant change to the design or operation pursuant to 27 CCR 21665.
6548	Transcript Part 2 6548 (Foster, C., City of Oceanside)	Then, I guess our comment would be would CalRecycle consider allowing hours to be considered, if it was an expansion of hours to those facilities? So, if a facility expanded their hours of operation, then I think that would call to question whether they're opening access to landfilling, and I'd like to see that facility to develop organic recovery systems, instead of increased access to landfilling.	A change to the regulatory text is not necessary. Yes, expanding the hours would allow for more access to the landfill, but it does not increase the tonnage of solid waste that the facility is permitted to receive or the overall capacity of the facility. So for the purposes of this section, increased hours of operation do not considered an expansion. Section 20750.1(c) defines the term "expanding" which means a solid waste landfill proposing to make a significant change to the design or operation pursuant to 27 CCR 21665.
6549	Transcript Part 2 6549 (Stein, A., Environmental Health Trust)	Section 17409.5.6, source-separated organic waste handling. I think this section, someone else, you read it from the email, Hank. Source-separated organic waste processing shall be kept separate from other solid waste streams. It's in there. It's just then you follow it up with all these other, you know, one, remnant organic material separated from the grey container collection can be combined with organic material removed from the source-separated organic collection. You go on. They aren't compatible. You can't do both. Either/or, one or the other. And if you say that it needs to be separate and we collected it in the green bin separate for the intention of creating what we defined as compost. But then, you're allowing it to be contaminated with other material right in the regulations. I don't understand it. And I do understand it and I want it to be struck. For example, B, source-separated organic waste and waste removed from a mixed waste organic collection service for recovery shall be stored away from activity areas specified, and identifiable areas as described in the facility plant transfer report. And then, we're back to, you know, the local, the LEA approving things. It just -- why not keep the two things separate? You have source-separated green bin material. It needs to be kept separate and aside from the mixed waste matter, organics. You're wanting them both to be processed, but why are you mixing one with the other? It's not working. And we're doing our best to separate it and I think you're contaminating this whole process of	Comment noted. Section 17409.5.6 requires that source-separated and mixed organic waste be stored and processed separately. However, the recovered organic waste from both waste streams can be combined once sampling/measurements have taken place.

Comment Number	Received From	Question/Comment	Response(s)
		1383, thinking that you're just going to get energy out of it. Energy reductions from the methane. But you're making a mess out of it all. So, please don't do it.	
6550	Transcript Part 2 6550 (Edgar, E., Edgar Associates)	Just do it. If we can get a three-cart system to get to 50 percent and some operations at mixed waste process facilities can have a source separation line that gets to 50 percent, then without backing away from source separation, the same facility could add a mixed waste processing for mulit-family and for commercial waste. So, some facilities can have a dual system whereby you have source separation to get to 50 percent, keep doing that as much as possible. And to get to 75 percent, you may have to squeeze the garbage and within the same facilities. I think your regulation says there's two separate tipping pads, two different ways to test for it. So, there is a way to keep them separation, store separation from mixed waste processing at the same facility. And I believe your regulations separate them and they have different types of waste characterization for each type operation when it's commingled at the same facility. But I came up here for another reason. I was just rebutting Dr. Teri (sic) Stein.	Comment noted. Commenter supports the regulatory text.
6551	Transcript Part 2 6551 (Edgar, E., Edgar Associates)	On one of the slides on post processing, under organic waste recovery activities, you have a new terminology that's not defined. They're called organics recycling center. As part of Beatrice's presentation, you talk about a recycling center has to pass a three-part test, which is ten percent residual and one percent for putrescible. So, I'm trying to get my mind wrapped around as to what exactly is a recycling center, given the fact that its mostly for putrescible food waste and organics. So, I think that if you have an organics recycling center, I don't think it can pass the three-part test. It's impossible. So, can you give some examples of what you're thinking about on an organic recycling center? MR. DE BIE: A site that's handling paper or cardboard.MR. EDGAR: Paper products. Okay. Well, I was thinking food wastes and greens. Is there an example of that where this would apply for food wastes, given the one percent per putrescible?	Comment noted. Comment is not commenting on the regulatory language.
6552	Transcript Part 2 6552 (Boone, A., Center for Recycling Research)	In 2008, the County of Alameda and in all landfills in Alameda County, the disposal of yard debris. And I would assume that the requirement or the allowance of biomass as a destination for separated organics does not preclude local action. There's no preemption on the State's part to requiring that or allowing that access. I would see an organizing factor in Alameda County, basically, to ban the disposal of any organic material in a landfill. And I just wondered if there's anything in this that would preclude local action on that. Thank you.	Pursuant to section 18983.1(b)(4), taking materials to a biomass conversion operation or facility is considered a reduction in disposal. SB 1383 preempts a jurisdiction from banning the use of biomass conversion as a means of disposal reduction. It has no impact on a landfill ban for yard debris.
6553	Transcript Part 2 6553 (Boone, A., Center for Recycling Research)	The local government cannot ban the access, using biomass as a suitable placement point for this organic material. You're saying that?	It is unclear what the commenter is saying, but the regulations do not prohibit landfill bans, but they do prohibit bans of material going to biomass as that is considered an authorized type of recycling. Pursuant to section 18983.1(b)(4), taking materials to a biomass conversion operation or facility is considered a reduction in disposal. SB 1383 preempts a jurisdiction from banning the use of biomass conversion as a means of disposal reduction. It has no impact on a landfill ban for yard debris.

Comment Number	Received From	Question/Comment	Response(s)
6554	Transcript Part 2 6554 (Boone, A., Center for Recycling Research)	You're not allowing us -- you're not allowing the county to restrict access to biomass facilities, is that what you're saying?	Pursuant to section 18983.1(b)(4), taking materials to a biomass conversion operation or facility is considered a reduction in disposal. SB 1383 preempts a jurisdiction from banning the use of biomass conversion as a means of disposal reduction. It has no impact on a landfill ban for yard debris.
6555	Transcript Part 2 6555 (Vazifdar, K., Los Angeles County Public Works)	Who is responsible for monitoring and enforcing solid waste facilities' compliance with the SB 1383 regulations? It will be the responsibility of local jurisdictions' LEAs or of the State.	Comment noted. The Local Enforcement Agencies and CalRecycle will be required to enforce facilities, depending on the facility and the oversight required.
6556	Transcript Part 2 6556 (Vazifdar, K., Los Angeles County Public Works)	There is no, to my knowledge, there is no hard and fast, or good science on the question of how much methane is actually captured at a landfill. Okay. There is some science that says that all of the organic materials which are deposited in landfills are gone -- are demethanized within six weeks of deposition. And so, they're methane never is approached by the gas capture system. If that is true, then it's extremely important to keep that material out of the landfill. And I want to make sure that the kind of information that you're going to have is going to be able for us to say we are confident that the State's procedures keep all of those readily methanizable -- whatever you call it -- demethanized materials out of the landfill. That's been the issue in Europe for 20 years and we don't want to see it happen here. Thank you, over.	Comment noted. Comment is not commenting on the regulatory language.
6557	Transcript Part 2 6557 (Stein, A., Environmental Health Trust)	Okay, I want to just follow up on what you were just talking about. On page 9 of AB6, Article 2, you have the determination of technologies that constitute reduction in landfill, and you give a number of .30 million tons - tell me what's the unit on that? Anyone know? MR. BRADY: That's M2CO2E, it's metric tons of CO2 equivalent. MS. STEIN: Metric tons, sorry about that. So, you have that number. You worked with CARB, probably, to get that number from established, published peer-reviewed research. My question is, or it's not really a question, it's a comment. The digestate that's coming out of the AD facilities, do we think that it's going to meet that and, you know, on an absolute basis? Because I think that there's some variability when you pull it out and, you know, that's a decision being made by the operator. It would be good to -- I've been promoting that it be matured and stabilized to get to that level and be below, but it's unclear. So, could we put a metric on the AD digestate design criteria for opening and moving the material to -- if you're going to move it out to the landfill to mature it, it's going to be a drive. And so, that's my concern is can you put some metrics on where the AD material should be? Because it's going to be emitting methane when you get it out, if you don't completely stop the process. So, that's it.	Staff used the methodology described in guidance doc referenced in the FSOR to derive the 0.30 MMTCO2e/short ton organic waste threshold specified in Section 18983.2. As noted in the appendix, staff utilized CARB's Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities, which considers transportation emissions from organic material feedstock collection to compost product delivery to be functionally equivalent to transportation emissions from collection of organic waste to landfill disposal. Therefore, transportation emissions associated with composting (feedstock collection and delivery of finished product) are accounted for in the 0.30 MTCO2e threshold and therefore must be considered in the GHG emissions reduction and the lifecycle GHG emissions calculations.
4577	Transcript Part 3 4577 (Levin, Julia, Bioenergy)	I just looked back at SB 1383, Health and Safety Code 39730.6. And no where in that section of code dealing with diverted organic waste does it mention the 2017 IEPR. That's in a different section of the bill about creating recommendations more	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.

Comment Number	Received From	Question/Comment	Response(s)
	Association of California)	generally for renewable gas. But it is not in the section about diverted organic waste. So, that's simply not accurate.	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle disagrees with the comment's interpretation that because section 39730.6 does not mention the 2017 IEPR, therefore CalRecycle is exempt from having to consider it. Section 39730.8 specifically requires state agencies to consider the recommendations pursuant to the 2017 IEPR to increase renewable gas use to meet the state's climate change goals, including "landfill diversion". Therefore, CalRecycle will continue to consider recommendations in the 2017 IEPR.</p>
4578	Transcript Part 3 4578 (Levin, Julia, Bioenergy Association of California)	<p>Having said that, I looked back at the IEPR section on renewable gas that was required by another part of SB 1383. And this is what it says on electricity. Generating electricity using in-state renewable gas assists with meeting the State's waste stream reduction requirements, brings environmental and public health benefits, and reduces short-lived climate pollutants.</p> <p>Nothing in the 2017 IEPR expresses an environmental or carbon preference for transportation fuel over electricity, pipeline injection, combined heat and power, industrial uses, renewable hydrogen. In fact, the 2017 IEPR talks at length about all the benefits of using renewable gas for hydrogen and for pipeline injection.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4579	Transcript Part 3 4579 (Levin, Julia, Bioenergy Association of California)	It does not recommend limiting the use of renewable gas to vehicle fuel. It does comment that LCF credits are more valuable right now than RPS credits. But that, by itself, is not a reason to exclude other end uses of renewable gas.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically</p>

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			<p>mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4580	Transcript Part 3 4580 (Levin, Julia, Bioenergy Association of California)	We strongly support the use of diverted organic waste to reduce low carbon and carbon negative vehicle fuels, but don't see any justification in law or science to limit it to that	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4581	Transcript Part 3 4581 (Levin, Julia, Bioenergy)	We also noted in our written comments that the California Council on Science and Technology, which was established by the Legislature to guide State agencies and the Legislature on scientific and technical questions. So, there is no net carbon benefit of using renewable gas for transportation fuel over other end uses.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p>

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	Association of California)		<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4582	Transcript Part 3 4582 (Levin, Julia, Bioenergy Association of California)	<p>And finally, most importantly, the Short lived Climate Pollutant Strategy, which should be the most important document in Short-lived Climate Pollutant regulations, strongly urges agencies to use renewable gas for electricity, pipeline injection, combined heat and power, and a wide variety of end uses.</p> <p>This is going to depend a lot on location. You know, if a wastewater facility already has electricity generation onsite and can take in more diverted organic waste, and produce more biogas to produce more renewable power, why would you require them to spend millions of dollars on additional equipment to go, instead, to vehicle fuel? It just doesn't make sense. And there is truly no legal or scientific basis for it. This would be the epitome of an arbitrary limitation.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p>

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			<p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4583	<p>Transcript Part 3 4583 (Schoonmaker, K. Stop Waste)</p>	<p>I think that this section, you need to open it up to more types of products and more pathways to compliance. So for products that would be things like mulch, biochar, electricity as was just mentioned, renewable diesel that's produced or is produced in all or part from diverted feedstock. Those are just some examples. But keeping it open so that if there's new technologies and that kind of thing down the road, you don't have to come back and try to amend the regs. So, for products that would be things like mulch, biochar, electricity as was just mentioned, renewable diesel that's produced or is produced in</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4584	Transcript Part 3 4584 (Schoonmaker, K. Stop Waste)	<p>And for pathways to compliance, I think I'll talk about this a little bit more, but the water-efficient landscape ordinance, as you know requires four cubic yards per thousand square feet of compost on all new construction and major renovations. And I think if cities -- and I don't know if you guys know this, but DWR says in their last reporting they've got 27 percent of jurisdictions enforcing and reporting to them. Because they don't have any teeth to make them enforce. And so, I think it would be great. You would have a precedent for requiring compliance with CalGreen. If you could also have that for the WELO as part of the pathway to meet this procurement target, that would be great. So, I'll give an example of one jurisdiction in a minute. And I know that doesn't make sense for everyone, like rural jurisdictions probably don't have that much development. So, could be a compost application on range land, or ag, in the rural jurisdictions just for an example.</p>	<p>The proposed regulations have been changed to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to require compliance with MWELO. There are specific aspects of MWELO that relate to the use of compost or mulch on landscaping and construction projects. These already adopted requirements provide a potential market for recovered organic waste products, like other ordinances jurisdictions adopt, this should already be enforced by jurisdictions. The MWELO provisions that are pertinent to reducing the disposal of organic waste are included in the regulations so that CalRecycle can ensure that those provisions are enforced. See also response to comment (refer to comment justification enforcement). The Procurement requirements are designed to further reduce organic waste disposal by increasing the procurement of recovered organic waste products. Enforcing laws that were already adopted to facilitate increased procurement is a method of ensuring that the organic waste products that should already be procured are procured. In other words, enforcing MWELO is a method of ensuring that minimum procurement amounts required by entities identified by MWELO prior to the adoption of SB 1383 are met. The proposed procurement requirements are separate and are designed to increase procurement of organic waste products in order to meet the statutory targets of SB 1383.</p>
4585	Transcript Part 3 4585 (Schoonmaker, K. Stop Waste)	<p>So, in general, I think the requirement's still really too high. And I think this is due, in part, maybe to a couple things. I know, I think it was in the -- oh, shoot, the Regulatory Impact Assessment. I was trying not to use the jargon and I had a hard time remembering what it was. Looking at that, I think it was an assumption of a WELO application rate, which is sort of 4 cubic yards per thousand square feet. That's about an inch and a third of compost, and that's what you would use in new construction, totally makes sense.</p> <p>But if a city is going to buy compost, they're going to apply it on parks, medians, what have. That application rate is about a half inch, so it's almost a third less and that could be pretty significant when we're talking about when you're scaling up.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products, including mulch and renewable electricity from in-vessel digestion and biomass conversion, to provide jurisdictions with even more flexibility to choose product that fit local needs.</p> <p>CalRecycle recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. If, as mentioned in the comment, the city has limited need for compost, mulch, or fuel, the city may procure electricity or heating applications derived from renewable gas. If the city is capable of reducing or eliminating its use of fossil gas entirely, it could correspondingly reduce or eliminate its procurement obligation under the regulation. This provision was added to ensure jurisdictions are not required to procure more</p>

Comment Number	Received From	Question/Comment	Response(s)
			material than they can actually use, and to ensure that the requirements do not conflict with other environmental goals to reduce the carbon intensity of products and activities cities procure material for use.
4586	Transcript Part 3 4586 (Schoonmaker, K. Stop Waste)	So, the City of Oakland buys about a thousand cubic yards of compost a year. And with the new procurement requirements, they would be required to purchase 43,000 cubic yards of compost, which is a quite a bit more. But if they were to enforce their WELO, which they do, but through enforcement of their WELO, they end up with about 39,000 cubic yards being applied.	<p>The proposed regulations were revised in to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELo. There are specific aspects of MWELo that relate to the use of compost or mulch on landscaping and construction projects. These already adopted requirements provide a potential market for recovered organic waste products, like other ordinances jurisdictions adopt, this should already be enforced by jurisdictions. The MWELo provisions that are pertinent to reducing the disposal of organic waste are included in the regulations so that CalRecycle can ensure that those provisions are enforced. See also response to comment (refer to comment justification enforcement). The Procurement requirements are designed to further reduce organic waste disposal by increasing the procurement of recovered organic waste products. Enforcing laws that were already adopted to facilitate increased procurement is a method of ensuring that the organic waste products that should already be procured are procured. In other words, enforcing MWELo is a method of ensuring that minimum procurement amounts required by entities identified by MWELo prior to the adoption of SB 1383 are met. The proposed procurement requirements are separate and are designed to increase procurement of organic waste products in order to meet the statutory targets of SB 1383.</p> <p>However, CalRecycle also recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction’s need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. It can do this by showing that the amount of fuel, electricity, and gas for heating applications procured in the previous year is lower than the procurement target.</p>
4587	Transcript Part 3 4587 (Schoonmaker, K. Stop Waste)	So, this is what I think, if you had alternative pathways to compliance you could -- if you're going to build those in, then you can still get what you want, which is market development. Right, you want a resilient market. And then, just a couple -- oh, also, that would cost about a million dollars.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4588	<p>Transcript Part 3 4588 (Schoonmaker, K. Stop Waste)</p>	<p>In the economic analysis, it said that the price of compost was \$25 a ton for San Francisco or Palo Alto, or both. It should be \$25 a cubic yard. And considering you get about - - you know, it's 800 pounds per cubic yard. So, that's a factor of over -- that's a gross overestimate and a gross underestimate of price.</p>	<p>Comment noted. CalRecycle disagrees that the cost per ton of compost is underestimated. CalRecycle revised the estimated cost of compost in the Appendix to the ISOR. CalRecycle estimated the cost of compost by conducting a survey of several facilities in California, which found that the overall cost to purchase compost at a bulk rate, transport it, and apply the compost to land was \$30 per ton of compost.</p>
4589	<p>Transcript Part 3 4589 (Schoonmaker, K. Stop Waste)</p>	<p>And in general, in a landscape market, cities are going to buy compost with -- by the cubic yard, not a ton. And so, what should happen, I think, is develop an appropriate bulk density. We like to use 800 pounds because it's kind of right in the middle. I'm sure people here disagree with me for very good reasons. We can talk about that later. But find a bulk density and just kind of settle on it for people.</p>	<p>CalRecycle has added the following conversion: 1 ton of organic waste feedstock = 0.58 tons compost = 1.45 cubic yards compost. This is based on 1 ton compost = 2.5 cubic yards using the commenter's recommended bulk density factor of 800 lbs/cubic yard, which is the same value used by the Department of Transportation (CalTrans). Note that cubic yards does not replace tons in the regulatory language; it is simply an alternative unit of measure.</p>
4590	<p>Transcript Part 3 4590 (Schoonmaker, K. Stop Waste)</p>	<p>And then, lastly, for jurisdictions that are going to be relying on compost, so all of our member agencies have really used composting to deal with their organics. So, I don't know how much of a pathway to buying renewable natural gas we would have. If most of it's being used by the facilities that make it and the jurisdictions that send organics there, the cities that use composting are kind of like they don't really have much of that hybrid pathway. I don't know how open that is to them.</p>	<p>CalRecycle disagrees with the comment's interpretation that the draft regulations mandate the use of compost. The draft regulations provide flexibility for jurisdictions to choose the recovered organic waste product(s) that best fit local needs. A jurisdiction has the option to procure other products instead of, or in addition to, compost and mulch.</p>
4591	<p>Transcript Part 3 4591 (Schoonmaker, K. Stop Waste)</p>	<p>So, and related to that, that fuel, fuel use should not be the indicator. I know you guys were struggling with like how do you figure out a baseline, because there's no similar organic products that you could have relied on to get a baseline for compost use. But fuel is not the answer, I don't think. I think we still need to think that one through about how you decide how much they really need. Which I do appreciate, thank you for trying to not make them buy more than they need.</p>	<p>CalRecycle disagrees with the proposed revision to add compost in Section 18993.1(j) on the basis that equivalent products are not well defined and lack conversion factors. The intent of this section is to provide jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. Given the potential difficulty of determining conversion factors for comparable products to compost (e.g. liquid chemical fertilizers compared to solid compost), jurisdictions have the option to use their previous year's procurement of gas, which have readily available organic waste conversion factors, to lower their procurement target. The focus on energy products is intended to simplify the process by which a jurisdiction can lower its procurement target. Although this mechanism relies only on fuel, electricity, and gas procurement, a jurisdiction can still choose to meet its lowered procurement target with any recovered organic waste products, including compost.</p>

Comment Number	Received From	Question/Comment	Response(s)
4592	Transcript Part 3 4592 (Lapis, Nick, Californians Against Waste)	I'm actually going to echo the previous two commenters on the need to expand the types of products that are eligible for procurement.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4593	Transcript Part 3 4593 (Lapis, Nick, Californians Against Waste)	I can't think of a single reason why we would not allow pipeline injection, Ultra C generation. In fact, if you were to look at the green house gas benefits, you know, when you're producing LCFS fuel that's being sold into a market that will probably be limited by the LCFS in terms of people aren't going to buy more than they need. And if that fuel were not on the market, they would be buying something else. So, the overall carbon impact there would be almost none as opposed to putting it into the pipeline. Not to say that we shouldn't include vehicle fuel, but pipeline injection seems better environmentally, when you factor in the existing programs. And just generally, it doesn't make a lot of sense to limit it purely to vehicle fuel.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>

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			<p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4594	Transcript Part 3 4594 (Lapis, Nick, Californians Against Waste)	<p>And on the composting side, I think you should expand it to include mulch products as well. And I realize that there are some concerns that I think have held you back from doing that. One being that there's a lot of mulch on the market. It's heavy and somebody could, you know, meet all their requirements very quickly with a small, relatively small amount of woody material. And while I understand that, that woody material would have a different conversion factor from a greenhouse gas benefit perspective, and it could be listed as a third separate pathway. And so, it might be a 3 to 1 ratio, or whatever, of mulch purchases to compost purchases.</p>	<p>CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4595	Transcript Part 3 4595 (Lapis, Nick, Californians Against Waste)	<p>And the second concern, as I think about direct land application and, you know, I share that concern, but I think there are ways to prevent that in the regulations. We do have a glut of wood in the market and it seems like that's an opportunity for procurement. If anything, I mean in Northern California we don't have a glut of compost, but we definitely have a glut of wood.</p>	<p>CalRecycle has revised the regulatory language to add mulch, that would include wood mulch, provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4596	Transcript Part 3 4596 (Lapis, Nick, Californians Against Waste)	<p>And then, finally, State procurement is noticeably absent. I think it's probably unreasonable to require all these folks to buy material when the State isn't doing its own part, and when the State is a major landowner.</p>	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor’s office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
4597	Transcript Part 3 4597 (Wade, Sam, Coalition for Renewable Natural Gas)	I'd like to just offer our support for the proposal overall. I really think it's a strong framework. I think it makes a lot of sense to have these types of procurement targets in place.	Thank you for your comment. CalRecycle agrees that procurement will be an important part of meeting SB 1383's organic waste diversion goals.
4598	Transcript Part 3 4598 (Wade, Sam, Coalition for Renewable Natural Gas)	But that said, our coalition does advocate and deployment of RNG across all end use applications. And we're, therefore, strongly in favor of broadening what would count toward the procurement targets to include other end uses.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically</p>

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			<p>mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4599	Transcript Part 3 4599 (Wade, Sam, Coalition for Renewable Natural Gas)	<p>You know, I think I understand the background of why transportation is the primary focus in the current draft. But this is really part of a broader debate the State's having about how to use the RNG resource effectively. And we don't think you can resolve it here. We think you guys should leave it open and have that conversation with your sister agencies, you know, outside of this rulemaking.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4600	Transcript Part 3 4600 (Price, Brandon, Clean Energy)	<p>And like Sam said, there's greater conversations going on in the State of California about the best use for RNG. We really want to keep that RNG market open, with free competition, so that hauler, that transit agency isn't forced onto a particular source of RNG. You know, we want them to get the most negative carbon-intense</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>RNG to the fleets that we can. That way, we're recognizing the biggest reduction. And limiting their purchases to this 1383 RNG really segments the market, so you're really kind of cutting off a big portion of the NGB demand, and that can have a crippling effect on the overall RNG market as a whole. At the onset of your presentation, you know, you said we need markets here for this product. You know, these recovered organic waste products. Well, the transportation market for RNG is already well established. And, you know, I also support Julia's comments with allowing for pipeline injection, because then the markets will determine what the best use for that RNG will be. We have a need for it in decarbonizing the pipelines. You know, SoCalGas and PG&E are actively looking for RNG to reduce their own carbon footprint. Electrification -- or, using RNG for electrification is a great thing as well. Really, we want to keep all of the options open because, again, we're already doing a great thing with diverting this organic waste. Now, let's let the market determine what the best use for that is and let's not hamstring those who are already using it.</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction's procurement target.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4601	Transcript Part 3 4601 (Price, Brandon, Clean Energy)	<p>Because for the most part all of the entities that are covered by this, are already using RNG today. So, there would be a lot of uncertainty on, you know, contracting going forward and what they're actually going to be able to do. They're not going to be looking out for a ten-year contract with, you know, a company like myself, where others in the RNG space -- you know, presents a lot of uncertainty.</p>	<p>The intent of these regulations is not to disrupt existing renewable transportation fuel procurement contracts between jurisdictions and providers. CalRecycle generally supports the procurement of renewable transportation fuels; however, in order to be consistent with the organic waste diversion goals of SB 1383, the procurement requirements on jurisdictions must focus on California, landfill-diverted organic waste. As such, only eligible products defined in Section 18982(60) as "recovered organic waste products" may count towards a jurisdiction's recovered organic waste product procurement target. If existing contracts supply jurisdictions with renewable transportation fuel that meet this definition, then a jurisdiction may count that fuel toward its procurement target. CalRecycle disagrees with the recommendation to "grandfather" existing suppliers who do not meet the recovered organic waste product definition,</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>as it is inconsistent with the goals of SB 1383 to mandate or incentivize products that do not contribute to in-state landfill diversion.</p> <p>The comment only refers to renewable gas, but it is important to note that a jurisdiction may procure other recovered organic waste products to fulfill the procurement requirement. CalRecycle has revised Section 18993.1 to expand the list of recovered organic waste products to provide more flexibility to jurisdictions for the products they can choose to procure. If a jurisdiction already has an existing RNG contract, the procurement requirements do not require the replacement of the RNG contract. Rather, the jurisdiction may procure other eligible products such as compost or electricity. Each jurisdiction has different needs for recovered organic waste product, and the draft regulations are intended to provide jurisdictions the flexibility to choose products that fit local needs.</p>
4602	Transcript Part 3 4603 (Price, Brandon, Clean Energy)	And then, one other clarifying point that I would like to raise, the LCSF does a great job in incentivizing RNG, but there is this provision in the LCSF that removes the avoided methane emission credit or the burned organic waste credit, which really gives you that negative CI score. So, I want to make sure there's a clarifying -- that we have this discussion about whether that negative CI would stay in place if this mandate -- when this mandate goes into play. You know, is the 50 percent and the 75 percent diverter organic mandate does that, you know, preempt these digesters from maintaining that negative carbon intensity score. Because, then, that really starts to slip the -- that starts to flip that economic value.	A change to the regulatory text is not necessary. The Low Carbon Fuel Standard (LCFS) program and the associated carbon intensity calculations are administered by the Air Resources Board (ARB). While CalRecycle recognizes that the LCFS program may impact the economics of some recovered organic waste products, it is not within CalRecycle's purview to comment on potential future changes to carbon intensity calculations.
4603	Transcript Part 3 4603 (Price, Brandon, Clean Energy)	there is also the RFS value. In talking with the D3 and the D5 RIN, there's a lot of things that come into this conversation. The D3, D5 value is something that EPA still is trying to wrap their heads around. There's no clarity on that issue.	A change to the regulatory text is not necessary. Comment noted. The Renewable Fuel Standard (RFS) program and the associated Renewable Identification Numbers (RINs) are administered by the Environmental Protection Agency (EPA). While CalRecycle recognizes that the RFS program may impact the economics of producing renewable transportation fuel, it is not within CalRecycle's purview to comment on the clarity of the D3/D5 RINs issue.
4604	Transcript Part 3 4604 (Stein, A, Environmental Health Trust)	The presentation had some slides about counting for procurement -- the calculation didn't talk about the digestate, the weight of the digestate. Is that going to be subtracted? Because you're saying that you can use the calculation you came up with to count for getting fair allocation of how much they need to purchase. But you have to subtract out what -- because when you're creating that fuel, you have digestate that you're then going to either send to a landfill, or compost it to turn into something else. But you're not including that weight in the calculation that you just described. It's just you didn't even bring it up when you had the slide, so it didn't get discussed. It's an important issue because it's probably half the weight. I mean, you know. So, I really think that it's a loophole and it's silent. You're silent on it, absent on it. Hopefully, it drives people to compost, instead of turn it into some lightweight energy that -- gas that can be used. But if it works, great. But the question is, just because you're then hauling off the digestate after you took out the energy, you know, that has to play into the calculation.	Digestate is part of the "organic waste" definition per section 18982(46), and is therefore subject to the 50% and 75% landfill diversion requirements. Nothing in the draft procurement regulations prevent a jurisdiction from procuring recovered organic waste products made with digestate feedstock, provided the end product (i.e. compost) meets all applicable definitions and relevant regulatory requirements. The intent of the procurement requirements is to incentivize markets for products made from organic waste materials that have historically been disposed of, such as digestate. Therefore, CalRecycle disagrees with the comment's interpretation that the procurement requirements are incentivizing landfilling of digestate.
4605	Transcript Part 3 4605 (Noble, D, Association of	I'm really admonishing CalRecycle to not be overly restrictive in the kinds of products that can be made from this resource. Because right now we're saying just compost and renewable natural gas. Since I represent a compost association, I'm all	CalRecycle has revised the proposed regulatory text to add additional products, such as renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also

Comment Number	Received From	Question/Comment	Response(s)
	Compost Producers)	over the compost part of this. But compost isn't going to take care of the whole bioresources marketplace, all the renewable carbon.	<p>allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities.</p> <p>CalRecycle is also adding mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4606	Transcript Part 3 4606 (Noble, D, Association of Compost Producers)	And not only that, compost as is defined, it doesn't include uncomposted material, which is definitely part of the marketplace. You know, sometimes what's called, you know, composted overs and that sort of thing. I mean, if it is composted, you'll call it compost.	<p>CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
4607	Transcript Part 3 4607 (Noble, D, Association of Compost Producers)	In terms of the gas, whether it comes from the digestate or if it comes from anerobic digestion and now, you know, pyrolytic conversion has already been permitted in a renewable facility in South Coast Air District. That produces a lot of energy. And biochar, biochar is the up and coming additive to not only compost, but soil.	<p>CalRecycle disagrees with the comment's recommendation to broaden recovered organic waste products to byproducts of pyrolysis, such as biochar. The purpose of the current regulatory language is to be consistent with SB 1383 statute that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. In-vessel digestion facilities are solid waste facilities, which allows CalRecycle to verify that these facilities are reducing the disposal of organic waste.</p> <p>Thermal and noncombustion thermal conversion technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. For the current regulatory proposal, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products using publicly available pathways and conversion factors.</p>
4608	Transcript Part 3 4608 (Noble, D, Association of Compost Producers)	Also, organic fertilizers can be made from this material. We can call them biofertilizers. So, there's a whole suite of soil amendments. And that even mention, what about animal feed, like hog slop from the food waste, which is traditionally how it was done. Why isn't that being counted as recycling.	<p>CalRecycle disagrees with including animal feed as a recovered organic waste product because animal feed is typically produced from feedstocks such as industrial food waste, that have not historically been landfilled. SB 1383 requires ambitious landfill diversion targets. Therefore, the definition of recovered organic waste product specifies that products must be made from "California, landfill-diverted recycled organic waste processed in a permitted or otherwise authorized facility." The SB 1383 mandate is to recover organic waste that would be disposed. It is inconsistent with SB 1383 to incentivize or mandate activities that do not reduce landfill disposal.</p> <p>CalRecycle disagrees with the recommendation to allow "biofertilizers" due to lack of verifiable conversion factors. The broad range of potential products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>

Comment Number	Received From	Question/Comment	Response(s)
4609	Transcript Part 3 4609 (Noble, D, Association of Compost Producers)	And then, all the materials that you can make, and all the chemicals that you can make, as well as the different forms of energy. So, there's a whole portfolio of bioproducts that can be produced from bioresources. So, what this points to is not wanting to restrict the market to just two choices, compost or biogas. But, you know, we're trying to create an industry here. Could you imagine, you know, saying that in the renewable, or the water industry, or the renewable fruit industry that we're only going to have two kinds of beverages? I mean, it just doesn't make sense in terms of building a marketplace.	of Reasons regarding the eligible end-uses identified in the regulations and how they should be interpreted. The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.
4610	Transcript Part 3 4610 (Noble, D, Association of Compost Producers)	MR. BRADY: And just one quick clarification on animal feed. That is recovery or recycling. But I think your point is that it's not considered -- it's not procurement, but it is considered in the regulations. MR. NOBLE: Yeah. Most municipalities probably don't have hog farms, but we said it could be a contractor within the municipality, right? I mean, that's in the regs as you currently wrote it. So, if they did have hog farms nearby that should count, right? MR. BRADY: I understand the point. MR. NOBLE: Yeah, okay. MR. BRADY: I just wanted to clarify that it is considered recovery, it's just not in the procurement portion.	Comment is from Public Hearing and was responded to during Public Hearing and noted in the comment.
4611	Transcript Part 3 4611 (Green, S., Sanitation Districts of Los Angeles County)	please add flexibility for allowing more and different types of products. And there may be new things that come along as this marketplace grows, right, and as more waste is diverted, and people are innovative and come up with new products.	CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
4612	Transcript Part 3 4612 (Green, S., Sanitation Districts of Los Angeles County)	allow new or additional organic products as approved by CalRecycle. So, leave some flexibility to add things along the way.	CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.

Comment Number	Received From	Question/Comment	Response(s)
			Regarding "flexibility to add things along the way", CalRecycle disagrees with adding an open-ended option for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.
4613	Transcript Part 3 4613 (Green, S., Sanitation Districts of Los Angeles County)	And then, the second, more sort of specific comment that we have, we related it back to the definition of renewable transportation fuel. It's possible that this could be addressed in a different way, but that made the most sense to us. But, basically, this particular situation we want to comment on is when you have a wastewater treatment digester that's taking in food water, and then we produce fuel. At our treatment plant, where we're doing this now, one of the considerations, we're currently building infrastructure and converting a natural gas fueling station to a renewable natural gas fueling station, as a result of the additional gas that we are and will be producing.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4614	Transcript Part 3 4614 (Green, S., Sanitation Districts of Los Angeles County)	But the issue that we wanted to highlight is the RIN issue that a previous speaker mentioned. So, in order to take advantage of the highest value of the RINs to make the project more viable, and cost effective, we're trying -- we're thinking what we need to do is put wastewater biogas into the fuel system and do -- and then, sort of	CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs, as

Comment Number	Received From	Question/Comment	Response(s)
		swap, and then use what we would say is the food waste generated gas to produce electricity to power our plant for onsite use.	identified in the comment. The comment also references EPA’s Renewable Fuel Standard (RFS) program. While CalRecycle recognizes that the RFS program may impact the economics of producing renewable gas, it is not within CalRecycle’s purview to comment on implementation of that program.
4615	Transcript Part 3 4615 (Foster, C, City of Oceanside)	Definitely want to reiterate the need for more flexibility,	CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
4616	Transcript Part 3 4616 (Foster, C, City of Oceanside)	Wastewater treatment facilities within our agency. We actually have excess digesters currently not being used. We can easily integrate food waste into our system. We are currently taking our biosolids and generating electricity, able to electrify our wastewater facilities. It would be very unfortunate to create this whole food waste system and not be able to use the credit for what we're doing at our own facility and need to buy additions things, outside of our system. So, that's really important to address that. Especially for our ratepayers, because they don't understand the need to go and buy more product when you're already doing a good thing with your current system.	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.

Comment Number	Received From	Question/Comment	Response(s)
			CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
4617	Transcript Part 3 4617 (Foster, C, City of Oceanside)	And one of the big things identified in that is some of the biggest areas to our agricultural and our range land operators is being able to afford the application and use of these materials, from a transportation and distribution perspective. So, as we consider driving the use of these materials, consider subsidy programs, programs that help support those industries and being able to use these materials. So, if a jurisdiction was developing some sort of supportive subsidy program. The money they're putting towards that, could that be counted as consideration in promoting procurement of these types of materials.	Nothing in the regulations prevents a jurisdiction from establishing a subsidy program or implementing and enforcing an ordinance to support the use of recovered organic waste products. If those subsidies or ordinances help drive procurement and use of eligible recovered organic waste products and all applicable requirements of Article 12 are met, then a jurisdiction may count that procurement towards its target.
4618	Transcript Part 3 4618 (Foster, C, City of Oceanside)	I also appreciate requiring, the recommendation to require the landscape model ordinance. Few jurisdictions are doing that. So, I think if we drive that and give credit for jurisdictions to do that, that would help.	The proposed regulations were revised in to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELo.
4619	Transcript Part 3 4619 (Foster, C, City of Oceanside)	we do not have a centralized purchasing agent in the City of Oceanside. We have a couple thousand employees, half of which might be their own individual division, or department purchasing agent. They're buying their own paper products, their own toilet paper and paper towels. It's been hard enough to get them to try to buy recycled content paper and now I need to tell them they need recycled content toilet paper? Talk about a way to just make it impossible to try to implement this type of organics program.	CalRecycle has revised the regulatory language to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content. Regarding decentralized purchasing, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them by early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
4621	Transcript Part 3 4621 (Foster, C, City of Oceanside)	requiring recycling content paper products could really, actually, be seen as a Prop 2018-26 (Prop 218) issue, an unfunded tax. I don't want to be the solid waste division that all of a sudden has to start paying for every other department's toilet paper simply because it's a solid waste law requiring the purchase of these materials.	This is not a tax imposed by the state because the state is not imposing a particular levy and is not raising revenue through procurement. To the extent commenter appears to be saying this is an unfunded mandate, CalRecycle disagrees. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating

Comment Number	Received From	Question/Comment	Response(s)
			<p>that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
4622	Transcript Part 3 4622 (Helget, C, Republic Services)	With that, I'd like to reiterate what Nick said, Nick Lapis said about the State procurement policies and expanding it more into the State areas.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to "develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state." These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p>
4623	Transcript Part 3 4623 (Helget, C, Republic Services)	Also, to keep things simple, what was stated earlier by the California Renewable Natural Gas Coalition, and Julia Levin, and the City of Oceanside. I think she made some very good, solid points and I'll lend her support to those comments.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4624	Transcript Part 3 4624 (Schiavo, P, CR&R)	I'd just like to echo especially Julia's comments.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>The IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4625	Transcript Part 3 4625 (Schiavo, P, CR&R)	concern about the language right now would stifle future innovations, technologies that we may not even envision at this point in time.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>CalRecycle disagrees with adding an option for “future innovations, technologies” for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
4626	Transcript Part 3 4626 (Edgar, E., Edgar and Assoc.)	I do think direct procurement is a key part of program implementation, but not necessarily to drive market. At least it's important because it provides a feedback mechanism for local governments to understand the quality of the programs that they're executing and the success of those programs.	Thank you for your comment. CalRecycle agrees that procurement will be an important part of meeting SB 1383’s organic waste diversion goals.
4627	Transcript Part 3 4627 (Edgar, E., Edgar and Assoc.)	I think there could be options for developing, the jurisdictions to develop ordinances that could help drive the measurable purchases of the materials that we're talking about. And if that includes additional materials and expand the scope of that, you know, mandating ordinance implementation, minimum soil organic matter content, requirements for development projects, other city contractor uses of RNG through other policy drivers may be another way for cities to achieve success.	Nothing in the regulations prevents a jurisdiction from establishing a subsidy program or implementing and enforcing an ordinance to support the use of recovered organic waste products. If those subsidies or ordinances help drive procurement and use of eligible recovered organic waste products and all applicable requirements of Article 12 are met, then a jurisdiction may count that procurement towards its target.

Comment Number	Received From	Question/Comment	Response(s)
4628	Transcript Part 3 4628 (Edgar, E., Edgar and Assoc.)	I would echo what Mr. Lapis said about the glut of wood chips on the market, now. Only going to get larger with trying to recover four and a half million tons of wood that's currently being disposed.	CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.
4629	Transcript Part 3 4629 (Edgar, E., Edgar and Assoc.)	And I would also echo the need to have other procurement requirements on other State agencies, education, and nonlocal entities to help promote the development and the success of these programs.	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to "develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state." These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding "nonlocal entities", it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction's population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
4630	Transcript Part 3 4630 (Balsley, R., Stop Waste)	But what I am struggling with is that the requirements mean that the jurisdictions would have to -- in order to prove that they're purchasing 75 percent of paper products, and printing and writing paper, they have to track all purchases so that you get the total amount to prove the 75 percent. And most of our jurisdictions do have decentralized purchasing.	<p>CalRecycle has revised the regulatory language to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content.</p> <p>Regarding decentralized purchasing, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them by early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary,</p>

Comment Number	Received From	Question/Comment	Response(s)
			contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
4632	Transcript Part 3 4632 (Balsley, R., Stop Waste)	Also, the definition of paper products right now includes building insulation and panels, and that is purchased quite differently than office supplies. So, I think if you do keep the language in around this, I think you should remove -- have language that says except building materials, or building insulation and panels. Because that's in capital projects and it's done very differently, and usually by contractors.	CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.
4633	Transcript Part 3 4633 (Balsley, R., Stop Waste)	And then, also, on the tracking aspect one more time, that I think purchasers as big as, say, Alameda County itself, can get vendor reports that may be able to help with some of this reporting. But most of the smaller jurisdictions would not, and they just don't have the staff resources to be able to track that level or purchasing of an expanded list of paper products. Maybe they could do it on the printing and writing paper, but I don't think that's possible on the paper products.	CalRecycle has revised Section 18993.4(a)(1) to allow proof of purchase other than receipts and invoices to be used. CalRecycle disagrees with narrowing the definition of "paper products". Paper is an organic material, and as such is subject to the ambitious organic waste diversion targets required by SB 1383. Therefore, it is within the purview of this regulation to build markets for recycled content procurement of all paper products, not just printing and writing paper. It should also be noted that the broad range of products is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. There is no requirement to purchase all of the paper products listed. Note, the language has already been changed in the previous draft to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content.
4634	Transcript Part 3 4634 (Stein, A., Environmental Health Trust)	I worked in the EPP, Environmentally Preferable Purchasing Office of DTS. So, one of the things is it would be really good -- we heard some comments that it's hard for local jurisdictions to purchase these goods, to have the commodity contracts from the State available. So that local governments, and nonprofits, and others could come to access these very large contracts that give really good prices, so -- and have the specifications inserted already.	CalRecycle generally agrees with the comment that a synergy between state and local purchasing would be beneficial. The Department of General Services (DGS) maintains state purchasing contracts and provides resources to local jurisdictions, such as "master agreements", which are contracts available to any agency that expends public funds. CalRecycle encourages jurisdictions to use these available resources.
4635	Transcript Part 3 4635 (Stein, A., Environmental Health Trust)	loophole issue of counting the digestate. I mean, the issue is you want to count the material that's going to go to create fuel. But that's a weight, how much is going to come in. You're having an amount digestate from that weight that came in and if it's just a loophole, you know, you can send it all to try and get some energy out of it, and then you get these credits. But you don't count the digestate. I want to repeat that again.	Digestate is part of the "organic waste" definition per section 18982(46), and is therefore subject to the 50% and 75% landfill diversion requirements. Nothing in the draft procurement regulations prevent a jurisdiction from procuring recovered organic waste products made with digestate feedstock, provided the end product (i.e. compost) meets all applicable definitions and relevant regulatory requirements. The intent of the procurement requirements is to incentivize markets for products made from organic waste materials that have historically been disposed of, such as digestate. Therefore, CalRecycle disagrees with the comment's interpretation that the procurement requirements are incentivizing landfilling of digestate.
4636	Transcript Part 3 4636 (Stein, A.,	But the fuel, we heard from the procurement end, could be purchased. But I didn't hear you say that there's a certification on that fuel quality, other than it's going to	CalRecycle generally agrees that renewable transportation fuel should be of appropriate quality for use in vehicles. Fuel quality standards are outside the scope of the rulemaking, which is

Comment Number	Received From	Question/Comment	Response(s)
	Environmental Health Trust)	hit the pipeline and then there will be some requirements for a purity of that material, so there's no toxics in it. But we have the certifications already in place, several of them exist. So, I highly recommend that in the procurement requirements include some certification of quality for the goods, and not to get really bad quality with toxics. I can imagine shimmering, with lots of bottle caps in the soil of any park that I could go to, if we didn't have the certifications that we need to make sure there's cleanliness.	focused on landfill diversion of organic waste and reduction of short-lived climate pollutants. It is incumbent on the off-taker to ensure that any renewable transportation fuel procured for the purposes of this requirement meets any and all applicable federal, state, or local standards.
4637	Transcript Part 3 4637 (Edgar, E., Edgar and Assoc.)	On behalf of GreenWaste Recovery. And they submitted a letter today with regards to opening up the procurement to include combined human-powered (phonetic) electricity. So, I concur with the comment from Julia Levin today, that we need to open up procurement to include CHP and electricity. There's a glut of wood chips out there and the ability to go biomass conversation to renewable energy is important.	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4638	Transcript Part 3 4638 (Edgar, E., Edgar and Assoc.)	On behalf of the anerobic digester industry, I represented a few facilities whereby once a digestate's out of an anerobic digestion facility, the methane has been removed. So, there is no methane coming of an AD process. So, that AD then goes off to a compost facility, a permitted compost facility in order to be composted and	CalRecycle disagrees with the interpretation that the regulations mandate cities to buy low quality compost. Nothing in the draft regulations forces a jurisdiction to accept material that does not meet their quality standards. If a city chooses not to procure compost, they can procure other recovered organic waste products such as mulch or renewable gas energy products. To clarify this

Comment Number	Received From	Question/Comment	Response(s)
		the material is screened to a specification of 0.5 percent. So, there is a quality control aspect of removing digestate from anaerobic digestion with quality products through permitted facilities.	point, CalRecycle has added language requiring that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. The definition of renewable gas specifies that it must be processed at a facility that is "permitted or otherwise authorized by Title 14 to recover organic waste."
4639	Transcript Part 3 4639 (Davis, J., Mojave Desert & Mountain Recycling Authority)	On the population, consider excluding State and Federal facilities, prisons, military bases. Some of the communities I work with, almost half again of their population is in their prisons or military facilities. And so, it distorts their population numbers pretty considerably.	The jurisdiction population, as defined in Section 18993.1, equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance (DOF). The DOF population estimates include "group quarters", which includes prisons, military bases, college dorms, group homes, nursing homes, etc. CalRecycle disagrees with the comment's recommendation to remove certain populations from a jurisdiction's population estimate, as it is unclear how this would be quantified, implemented, and verified. Nor is this approach transparent. The intent of using population data from DOF is to ensure that data are publicly available and transparent. Additionally, all of these residents generate organic waste within the jurisdictional boundaries.
4640	Transcript Part 3 4640 (Davis, J., Mojave Desert & Mountain Recycling Authority)	Also, I understood that the intent of that exclusion on the fuel, the prior year's fuel purchase, does it also comply to requirements for compost somehow? When I read it, I didn't see it that way. I saw it just applying on the fuel side. And strongly suggest -- I mean, I ran the numbers for a couple of communities that have literally no turfed areas. They're high desert communities, with no turfed park areas, no medians, and they'd be required to purchase several thousand tons of compost with, really, no place to apply it.	<p>A change to the regulatory text is not necessary. The intent of section 18993.1(j) is to provide jurisdictions with a method to lower the procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. Given the potential difficulty of determining conversion factors for comparable products to compost (e.g. liquid chemical fertilizers compared to solid compost), jurisdictions have the option to use their previous year's procurement of gas, which have readily available organic waste conversion factors, to lower their procurement target. The focus on energy products is intended to simplify the process by which a jurisdiction can lower its procurement target. Although this mechanism relies only on fuel, electricity, and gas procurement, a jurisdiction can still choose to meet its lowered procurement target with any recovered organic waste products, including compost.</p> <p>Regarding communities with no turfed areas, the procurement regulations do not mandate a jurisdiction to procure compost. The intent of the regulation is to provide flexibility to jurisdictions to procure products that fit local needs. If a desert community does not have a use for compost, it can procure other recovered organic waste products.</p>
4641	Transcript Part 3 4641 (Hilton, R., HF&H Consultants)	I'm going to echo a lot of the comments on you're asking for too much procurement, at least of the couple of things you're letting us procure. And so, please either reduce the requirement because it's way more than communities need, or change the mix of the materials, adding mulch, adding power, all the things that have been suggested are good ones. But these are like factor of five overruns on what people need in the communities that we've run the numbers. So, we need to either have some diversity or a level requirement.	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature. CalRecycle has also revised section 18993.1 to expand the list of eligible recovered organic waste products, including mulch and renewable electricity from in-vessel digestion and biomass conversion, to provide jurisdictions with even more flexibility to choose product that fit local needs.</p> <p>However, CalRecycle also recognizes that, in some extraordinary cases, the procurement target may exceed a jurisdiction's need for recovered organic waste products. Section 18993.1(j) provides jurisdictions with a method to lower the procurement target to ensure that a jurisdiction</p>

Comment Number	Received From	Question/Comment	Response(s)
			does not procure more recovered organic waste products than it can use. It can do this by showing that the amount of fuel, electricity, and gas for heating applications procured in the previous year is lower than the procurement target.
4642	Transcript Part 3 4642 (Ozorak, E., Sacramento County)	I just wanted to echo the information that my colleague from the City of Oceanside presented. In the case of Sacramento County, we have 11,500 employees, as well as an untold number of vendors. Trying to track the amount spent on paper purchases and the amount of paper purchased is certainly going to be very challenging because there is no centralized purchasing.	CalRecycle has revised the regulatory language to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content. Regarding decentralized purchasing, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them by early 2020 allows regulated entities approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
4643	Transcript Part 3 4643 (Astor, JK.)	If you're going to give locals the relief that they're seeking, which I'm a little bit ambivalent on, I sure hope you're going to give the haulers, who are stuck with material they had to process with no home, concomitant relief. And all too often I'm confronted, not by anybody in this room, and I mean that sincerely, but by municipal consultants or municipal employees who sit across from me at the franchise table and say that's your problem. So, don't add to the haulers' burden, please. We're still waiting for the hundred new facilities. And once we process all this, there's been no indication to my knowledge that we're going to have a guaranteed market for any of this, particularly in Southern California. So, if somebody makes a case for relief, by all means give it to them. But give that same relief or something corresponding to it to the haulers who are charged with the infrastructure, and the collection, and all the other nonsense. Otherwise, we're going nowhere fast.	The proposed regulations are requirements on jurisdictions to procure specified amounts of recovered organic waste products. A hauler could be a direct service provider to a jurisdiction, for example. CalRecycle has revised the regulatory text in Section 18982(17) to amend the definition of "direct service provider" to clarify that a contract or other written agreement, for example a Memorandum of Understanding (MOU), could be used to prove the direct service provider relationship.
4644	Transcript Part 3 4644 (Boone, A., Center for Recycling Research)	The real question is how much of the methane is escaping into the atmosphere? Nobody can tell us. If 30 percent of the methane is escaping into the atmosphere, we're making things worse instead of better by doing it. But if it's zero percent then, hey, maybe it's worth doing. But we need those kinds of numbers and they're not there. In the same way the landfill numbers seemed to get stuck a couple of years ago, there have been no numbers at all on the methane generation from AD facilities, to the best of my knowledge. When I asked the wastewater treatment engineer what percent do you recover? He said 100 percent. We know that's not true. What is the right number? I don't know. But I think you all ought to find out.	Comment noted.
4645	Transcript Part 3 4645 (Schoonmaker, K., Stop Waste)	So, while I know it's not something that would make it into the regs directly, I would think it would be great if Cal Recycle could encourage and support local sustainable landscape training for maintenance and design. So, things like rescape, Bay friendly, G-3.	Once the regulations are finalized, CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products. Regarding training, CalRecycle generally agrees that training for local sustainable landscape maintenance and design is valuable.
4646	Transcript Part 3 4646 (Levin, J., Bioenergy)	One of the other concerns we've heard from CalRecycle staff about broadening the uses of renewable gas in the procurement side of the equation is a lack of metrics. So, we suggested one in our written comments, which is how you convert	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.

Comment Number	Received From	Question/Comment	Response(s)
	Association of California)	<p>biomethane to electricity, according to the Department of Energy's website. I believe found a number of additional metrics since then. The Energy Commission has its own metrics for conversion to combined heat and power. You don't need any more metrics for pipeline gas. It would be the same metric that you're using for vehicle fuel, it's just the conversion of tons of organic waste to standard cubic feet of biomethane.</p> <p>But for electricity and combined heat and power, there are multiple sources from the International Energy Agency, to the U.S. Department of Energy, and the California Energy Commission. So, the metrics are readily available, so please don't let that be a reason for not expanding the uses of biomethane.</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p> <p>CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
4647	Transcript Part 3 4647 (Stein, A., Environmental Health Trust)	<p>We have a thousand school districts. They're a local entity in my mind. They're a different type. They're not, you know, a city or county, but they're part of our governmental system. And that would be perfect to make these same requirements in the school districts. Because the children are the ones learning, and they're the ones that spread this message to the rest of the State. And so, if we could instill it at the schools, I think parents would be more accepting. You heard that this is not something people want to do. And it's not new. The fabric has been here for many years and we haven't made the progress we need. I think we need our children to really help us, give us a boost, a kick in the pants.</p>	<p>"Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to “develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state.” These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding “nonlocal entities”, it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction’s population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.”</p>
4648	Transcript Part 3 4648 (Davis, J., Mojave Desert & Mountain Recycling Authority)	<p>Communities that are economically disadvantaged have a far higher hurdle, particularly per capita in compliance. And so, if you consider the median income consequence to the regulatory review of \$17 a month -- I'm sorry, \$17 a year for single family homes to comply. That's what's in the regulatory assessment. If that's a hundred percent, if you're a city that's at 50 percent of median income, that's a much higher hurdle. It's much more painful to those residents and the communities generally are not as well off and have to struggle to meet other service requirements. So, in a substantial effort, and the corollary provision that allows exceptions, please consider the impact on these economically disadvantaged communities. That, really, it's a real struggle for some of the communities. And I've seen numbers that are way beyond the \$17 a year to comply, for some of these communities. Because they're economically disadvantaged for reasons. They're remote. They're isolated and the nature of their population is going to make it really, really difficult to comply.</p>	<p>The comment posits that the financial impacts of the regulations will be greater for disadvantaged communities but does not provide evidence or quantification of how the impacts will be greater in these communities. For example, will haulers or jurisdictions charge disadvantaged communities more to provide the same level of service provided to other generators? The comment does not provide specific examples of how waivers could be provided for disadvantaged communities, nor does it consider the impact such waivers could have on the state’s ability to achieve the statutory targets. CalRecycle considered the development of a waiver for disadvantaged communities statewide but found that a statewide exemption for disadvantaged communities would exempt a portion of organic waste generation that would threaten the ability of the state to achieve the statutory targets.</p> <p>CalRecycle encourages haulers and jurisdictions to structure their rates in a manner that reduces the economic burden experienced by low income communities. Haulers and jurisdictions have sufficient flexibility under existing law, and within the structure of the regulations to design their programs and rates in a manner that reduces the financial burden on economically disadvantaged communities. For example, haulers and jurisdictions could base their service rates on waste generation, which would allow economically disadvantaged generators that are likely to produce less waste to receive a lower rate. Jurisdictions and haulers could also identify other mechanisms to subsidize services for economically disadvantaged portions of their community.</p>
4649	Transcript Part 3 4649 (Foster, C., City of Oceanside)	<p>The reporting and enforcement section is over 25 pages long. I think our attorney even still struggles with interpreting and how we would implement it from a jurisdictional staffing approach. It's extremely prescriptive, extremely complicated. Very difficult to convey to my stakeholders and council members what needs to be done. The reporting requirements, alone, are overly burdensome and too</p>	<p>A change to the regulatory text is not necessary. The reporting and recordkeeping requirements are the minimum amount needed to allow CalRecycle to ensure a jurisdiction’s compliance with the Chapter and the implementation and enforcement within the jurisdiction. The recordkeeping requirements also assist a jurisdiction in verifying and tracking their own progress and if they are complying with the law.</p>

Comment Number	Received From	Question/Comment	Response(s)
4650	Transcript Part 3 4650 (Foster, C., City of Oceanside)	<p>prescriptive, making it completely impossible to be able to comply. I think it sets up jurisdictions who are making a good faith effort to comply with this regulation.</p> <p>I think jurisdictions right now concerned about just trying to figure out how to build a facility or a system for food waste. They're not even comprehending the staffing reality and programmatic reality of needing to do those route reviews, those reporting requirements, needing to chase after our haulers, and our edible food recovery generators, and our self-haulers, and all the physical space waivers that we're going to face.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4651	Transcript Part 3 4651 (Foster, C., City of Oceanside)	<p>It's also extremely difficult to put the burden on the jurisdiction to make a higher -- be able to do a more stringent standard on our entities. So, if the regulation fails to require all generators to comply and the regulators tell us, well, the city can pass a more stringent standard, that's impossible to do at a local jurisdictional level considering the cost implications of this program.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>

Comment Number	Received From	Question/Comment	Response(s)
4652	Transcript Part 3 4652 (Foster, C., City of Oceanside)	We're looking to implement a commercial food waste program as early as next year, and I'm already looking at a 6 to 14 percent rate increase, and that's infrastructure alone. That does not take into consideration the staffing and programmatic implementation cost for commercial recycling. And I haven't even looked at the residential side of it, yet.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
4653	Transcript Part 3 4653 (Foster, C., City of Oceanside)	I don't think you see many cities here, because I don't think cities realize what's coming up, and they're still struggling to keep up with AB 341 and AB 1826, two mandates that I don't think have been that successful. So, I encourage you to take a look again at this section to see what you can do. And it's not just about creating two-year extensions, or things of that nature. It's really looking at how prescriptive you've done. And considering opportunities for jurisdictions to come to you with compliance plans, education plans that may look different than what you think needs to be done, but are effective for those communities.	Comment noted. This comment is not recommending a change to the regulatory text
4654	Transcript Part 3 4654 (Balsley, R., Stop Waste)	...piggy-backing off of what was just said, I do feel like in many ways, with seven years of implementation of our mandatory recycling and our composting ordinance, we are ahead in many ways. But we have spent, you know, \$1.5 million per year on implementation of this project over those times. We've spent thousands, tens of thousands of dollars, probably, on customizing our own customer relationship management software.	SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.
4655	Transcript Part 3 4655 (Balsley, R., Stop Waste)	Because if you look at how prescriptive -- you know, the six -- even just tracking the 60 days, 90 days, all of those different time periods per account is very difficult. And we are, like I said, ahead because we created that system. But someone who's starting from scratch would have to spend a lot of money to do that kind of tracking.	A change to the regulatory text is not necessary. Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if there are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction issues a NOV. Extending this time

Comment Number	Received From	Question/Comment	Response(s)
			frame would allow the entity to be non-compliant an additional 30 days. Once the jurisdiction issues a NOV, it must follow up within 90 days. This subsection conforms to the Departments general procedure of written notices of potential failure and a reasonable timeframe for remedy.
4656	Transcript Part 3 4656 (Balsley, R., Stop Waste)	But also, I wanted to talk about how over time we've honed our commercial inspection times. We average about 15 minutes per site. That is not including the time by our other staff to review and process the inspection results. But this is only because many times the inspector only needs to look at the hauler service bins that are outside, in publicly accessible areas. Having to go into a business to verify the appropriately-labeled, indoor containers are in all areas, or that education has been provided to employees annually, would mean significantly more time needed per inspection and increase access issues. In our ordinance enforcement, we determined that the inspection at the hauler service bins was where it was the most effective to see where proper sorting -- whether proper sorting was occurring. And if a generator was properly sorting their materials, it shouldn't matter if they don't have color-coded bins or extensive signage. They're sorting properly.	CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.
4657	Transcript Part 3 4657 (Balsley, R., Stop Waste)	Penalties that indicate that CalRecycle can fine jurisdictions if they don't enforce against generators' indoor containers specific are inappropriate.	CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.
4658	Transcript Part 3 4658 (Balsley, R., Stop Waste)	Your flags (regs) also indicated that enforcement would mostly have to consist of annual compliance reviews, which is the provision of service, and route reviews for container contaminants. But then why keep in penalties to the -- potentially to the jurisdiction on what happens indoors for those businesses.	CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.
4659	Transcript Part 3 4659 (Balsley, R., Stop Waste)	Also, you know, as has been mentioned previously, the current requirement to submit a massive amount of data is very burdensome under restrictions. And specifically, I wanted to point out that your requirement for the January to June 2022 time period being required one month at the end of that period is not doable. For instance, the processing of our citations sometimes has a six- to eight-week lag. Also, many reporting provisions in the franchises don't have that quick of a turnaround time to provide the data that would be needed, you know, for something that happened in that June time period that's due August 1st. Also, so there are reasons by the electronic annual report, now, has jurisdictions reporting in August for the prior calendar year. So, I think it's inappropriate to have that six-month time due one month later.	A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.
4660	Transcript Part 3 4660 (Balsley, R., Stop Waste)	Furthermore, in our MRO implementation, we regularly convey information about the enforcement and technical assistance activities that we conduct in our member jurisdictions. But to have to transfer copies of all inspection data, photos, copies of enforcement letters to that the jurisdiction is the sole holder of the implementation	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.

Comment Number	Received From	Question/Comment	Response(s)
		record would require massive data management systems that don't, in and of themselves, do anything to make progress on diverting organics from the landfill.	Section 18995.2(b) states that the records can be maintained in physical or electronic form. This level of recordkeeping is essential to have an evidentiary record to verify jurisdiction compliance with the requirements of the Chapter.
4661	Transcript Part 3 4661 (Balsley, R., Stop Waste)	We request that if a jurisdiction is designated another entity, such as us, to be responsible for major components of the requirements, that they also be able to designate that entity as the holder for that portion of the implementation record. And that you listen that it all needs to be in one central location.	A change to the regulatory text is not necessary. A central location for the implementation record is necessary to allow for timely, convenient and certain access to records and the proposed regulations state that jurisdictions are to provide access. If the record is under the control of a separate entity, the jurisdiction cannot provide that access.
4662	Transcript Part 3 4662 (Balsley, R., Stop Waste)	I also want to really encourage CalRecycle to think about how the massive amount of reporting data that's currently required is going to take away from the resources that could be used to affect behavior change and that's what's really -- and what's really need to show that a jurisdiction is making the appropriate progress towards the goal that needs to be really looked at.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
4663	Transcript Part 3 4663 (Cote, K., City of Fremont)	I just wanted to echo some of the things that Rachel said. When I read the regulations, I'm really concerned there are some things that are so prescriptive and so impractical to implement in the field that there's no way we're going to be able to do them effectively. Even as organized and as experienced as we have been, having StopWaste, you know, doing inspections, and helping us, and implementing the organics program.	SB 1383 provides a broad grant of regulatory authority to CalRecycle to impose requirements on jurisdictions in order to achieve the organic waste diversion goals of a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. This authority includes creation of rules designed to implement these statewide mandates and ensure that the statewide organic requirements are met. CalRecycle has determined that the mandatory collection service requirements and container color and labeling provisions are necessary to maintain consistent standards throughout the state to reduce contamination of organic waste and ensure that collected organic waste is clean and recoverable in order to meet the aforementioned diversion goals.
4664	Transcript Part 3 4664 (Heaton, S., Rural County representatives of California and Rural Counties Environmental Services JPA.)	This section talks about requirements for evaluation of a jurisdiction's compliance and notification in writing of the findings for the jurisdiction. But it only provides a jurisdiction to correct deficiencies of an ordinance. It's very specific about that, and not other types of compliance issues. It speaks very specifically to ordinances. And that could be problematic. We have some recommended language that is really similar to what was just adopted in the AB 901 reporting requirements. And I have -- I could read it to you, but I don't really think anybody wants that. But I have it in writing and I'm going to drop in that box before I sit back down. So, that will make it a little easier, unless you really want me to read it, but I don't think you want me to.	<p>A change to the regulatory text is not necessary Section 18996.2 outlines the process in which the Department will notice a jurisdiction of any alleged failure to comply. The jurisdiction will be noticed and given 90 days to comply. The Department may grant an extension for 90 days, if additional time is needed to comply. If the jurisdiction has made substantial effort to meet the maximum compliance deadline but there are extenuating circumstances beyond the control of the jurisdiction, the Department may issue a Corrective Action Plan and extend the deadline for no more than 24 months beyond the date of the original Notice of Violation. Section 18996.1 outlines the process for noticing a jurisdiction for a deficient ordinance. The jurisdiction shall have 180 days to correct deficiencies. If not, the department may commence enforcement action. A violation due to a deficient ordinance is not eligible for placement on a Corrective Action Plan. An ordinance adopted by a jurisdiction that is inconsistent with or does not meet the requirements set forth in this chapter is not upholding the tenets of the chapter and must be corrected in a much shorter timeline.</p> <p>Section 18996.2 provides opportunities for a jurisdiction to correct compliance issues after a Notice of Violation but before the imposition of penalties.</p>

Comment Number	Received From	Question/Comment	Response(s)
4665	Transcript Part 3 4665 (Heaton, S., Rural County representatives of California and Rural Counties Environmental Services JPA.)	So, and the other comment that I had was with respect to when there is an inconsistency in an ordinance, the Department -- the section is only allowing 90 days to fix the inconsistencies before enforcement action is undertaken. And, you know, 90 days might seem like a long time, but if it's a pretty severe inconsistency when you're dealing with a public process, and then a board of elected officials and, you know, that can get pretty complicated. Ninety days may not be sufficient time, so we'd just ask that you would consider that.	CalRecycle has revised section 18996.1(e) in response to this comment. The change increases the relevant timeline to 180 days.
4666	Transcript Part 3 4666 (Haas-Wajdowicz, J., City of Antioch)	However, our initial cost proposal is looking at, at least a 40 percent increase in residential garbage rate costs to our consumers. So, it's a little -- it's not looking good for adding the food waste to our green waste program.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
4667	Transcript Part 3 4667 (Haas-Wajdowicz, J., City of Antioch)	Additionally, the timeline. We are still negotiating a commercial organics rate for SB 1826. Right now, our franchise hauler is offering it at no cost because we haven't been able to reach an agreement. So, I'm really concerned about how long it's going to take us to reach an agreement once we have our formal rulemaking done on the residential rates. And so, I just am really concerned about the timeline that you're proposing for compliance with local government.	Comment noted. The organic waste reduction goals for 2020, 2022, and 2025 are specified in the statutory text of SB 1383 and CalRecycle has no discretion to change these timeframes.
4668	Transcript Part 3 4668 (Pascoe, H., Alameda Food Bank)	I just want to reiterate our strong support for robust capacity planning that includes the recovery organizations. We really hope that this will help to mitigate any unintended consequences related to violations and fines with food recovery organizations. More specifically, because our smaller, volunteer staffed organizations could be disproportionately impacted by them.	A change to the regulatory text was not necessary because this comment is in support of SB 1383's edible food recovery capacity planning requirements specified in Article 11.
4669	Transcript Part 3 4669 (Ozorak, E., Sacramento County)	in our county, we've been partnering with the county's environmental management department for many years for the 341 and other inspection regimes. And the cycle that we've had has been a three-year cycle, instead of a one-year cycle. But under this -- so, we have a track record on how much we spend on enforcement. And per inspection, it's anywhere between \$320 to \$380. So, if we magnify that by the	Comment noted. SB 1383 allows a local jurisdiction to charge and collect fees to recover the costs incurred in complying with the regulations.

Comment Number	Received From	Question/Comment	Response(s)
		number of generators, and as I mentioned this morning the big pool is 40,000, the EMD pool is 18,000. Using the hauler list, it's 7,000. So, based on 7,000, we're looking at anywhere between \$2.2 to \$2.6 million just for that part of the program.	
4670	Transcript Part 3 4670 (Edgar, E., Edgar and Assoc.)	I was around back in the AB 939 days, and we used to do county-integrated risk management plans, source reduction elements, compost components and nondisposal facility elements with a local task force. I understand that will keep on going on every five years, with a five-year review. And then there was AB 341 and 1826 about annual reports. And now, we have another level of instruments for compliance. Is there any opportunity to combine them all into one document versus trying to do a -- do we still need to do CIWMPs, are CIWMP and compost components of yesteryear no longer an instrument to use? Are we pivoting towards this new format? And why would we need to do county integrated management plan updates every five years, if they're irrelevant in today's reporting and planning aspects?	Commenter is asking questions about integration of these regulations with other statutory programs and is not suggesting changes in the regulatory language or commenting on the regulatory process CalRecycle followed.
4671	Transcript Part 3 4671 (Foster, C., City of Oceanside)	...one of the biggest challenges we're seeing is how are we going to staff this whole regulation in general. And, in particular, this section. You talk about desk audits. I lack in staffing who would know what to do with regard to annual reporting, or quarterly reviews, et cetera. Our city, alone, we've had two full time vacancies open for the past year. We've gone through one full recruitment process. I ended up with 175 applications, all of which had stormwater and water conservation experience. But the majority of experience in solid waste was a recycling bin at their office. So, there's really a lack of experience and a lack of understanding of our industry, and let alone this type of regulation. So, we'd like CalRecycle to really consider the staffing list that needs to happen in order to meet the needs of SB 1383, not just the infrastructural.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
4672	Transcript Part 3 4672 (Wine, S., Clean Energy)	...you gave an example of the City of Los Angeles. And the city, based on its population would have around five million gallons of renewable transportation fuel they would have to purchase. Ironically, the city does actually use just about 5 million gallons of fuel today. Now, I don't need to go back and echo what my colleagues and stakeholders have said here, but I think it's important to open up the purchasing requirements that allow for optionality.	The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more

Comment Number	Received From	Question/Comment	Response(s)
			<p>flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4673	Transcript Part 3 4673 (Wine, S., Clean Energy)	<p>Subsequently, I think you should really look at the injection point into the pipeline system. The city has around six or seven solid waste facilities where they park and domicile their trucks and having fueling infrastructure in place. So, in theory, if you have all these digester facilities in play by 2022, and the city has one digester that's collecting this, if it could inject into the pipeline system, they would be able to allocate that fuel to its existing infrastructure. I think we're missing an important point that logistics does definitely become a big challenge. Everybody knows the freeways are congested and the communities are already impacted by trucks on the road. So, having more logistical issues with trying to go to one central fueling location can present a challenge, not only for a city, but also for a contracted refuse.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. Note that pipeline injection is not an eligible procurement option in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, by including pipeline injection, a jurisdiction(s) could count pipeline injected gas as well as the end use of that gas. The draft regulations do not preclude renewable gas facilities from injecting gas into the pipeline, but the language has been streamlined to clarify that only the end use of that gas (transportation fuel, electricity, heating applications) will be counted towards a jurisdiction’s procurement target.</p> <p>SB 1383 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 “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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
4674	Transcript Part 3 4674 (Wine, S., Clean Energy)	<p>The second comment I'd like to say is earlier today a colleague, who will remain nameless, who is not representing anybody here today, talked a lot about grandfathering or potentially making sure that people who have invested in infrastructure are able to have some way to amortize those investments. I think it's also important to consider that there are many refuse (indiscernible) -- some of which were early adopters of renewable natural gas when the Low Carbon Fuel Standard was adopted in 2011. They were some of the first users. Many of them have used RNG and have long term contracts whereby they are receiving RNG from people like Clean Energy, that's distributing renewable natural gas in the pipeline system. If 2022 comes around, in theory they would have to use 1383 renewable transportation fuel and they could become into a peculiar position whereby they might have to break or breach an existing agreement with renewable gas, from the existing supplier, potentially, as we see it. And many of those off-take contracts that these fleets have signed up to receive this gas were really the precipice for how RNG projects have been developed to date. So, I think we need to be mindful of the fact that those contracts are in place. And then, I would encourage CalRecycle to take that into consideration as a way, or a mechanism to potentially grandfather those types of fleets into this program.</p>	<p>The intent of these regulations is not to disrupt existing renewable transportation fuel procurement contracts between jurisdictions and providers. CalRecycle generally supports the procurement of renewable transportation fuels; however, in order to be consistent with the organic waste diversion goals of SB 1383, the procurement requirements on jurisdictions must focus on California, landfill-diverted organic waste. As such, only eligible products defined in Section 18982(60) as “recovered organic waste products” may count towards a jurisdiction’s recovered organic waste product procurement target. If existing contracts supply jurisdictions with renewable transportation fuel that meet this definition, then a jurisdiction may count that fuel toward its procurement target. CalRecycle disagrees with the recommendation to “grandfather” existing suppliers who do not meet the recovered organic waste product definition, as it is inconsistent with the goals of SB 1383 to mandate or incentivize products that do not contribute to in-state landfill diversion.</p> <p>The comment only refers to renewable gas, but it is important to note that a jurisdiction may procure other recovered organic waste products to fulfill the procurement requirement. CalRecycle has revised Section 18993.1 to expand the list of recovered organic waste products to provide more flexibility to jurisdictions for the products they can choose to procure. If a jurisdiction already has an existing RNG contract, the procurement requirements do not require the replacement of the RNG contract. Rather, the jurisdiction may procure other eligible products such as compost or electricity. Each jurisdiction has different needs for recovered organic waste product, and the draft regulations are intended to provide jurisdictions the flexibility to choose products that fit local needs.</p>
4000	Tseng, E, LA LEA	<p>Source separated organics (SSO) typically has way more than 10% contamination (so it does not meet the requirement of the three part test), so technically/legally, the processing of SSO is the same as "mixed waste processing". (Note: Composition tests show up to about 30%+ contamination in a SSO collection program). Does SSO processing require the 75% recovery (high diversion organics facility) of targeted organics?</p>	<p>Comment noted. Facilities that receive source separated organic waste collection stream would not be subject to the recovery efficiency requirement but would be required to comply with the limitation of no more than 20% of organic waste on and after 2022 and 10% on and after 2024 sent for disposal.</p>

Comment Number	Received From	Question/Comment	Response(s)
4001	Tseng, E, LA LEA	<p>In the three-cart system summarized in Article 3, section 18984.1 a jurisdiction can choose to collect food waste in the green bin or the black bin. Food waste collection in the black bin requires processing in a high diversion organics facility demonstrating 75% organics capture. Food waste collection in the green bin does not have any quantitative requirement for organics capture. This is a loop hole whereby collection of organics in the green bin is compliant even if only a small fraction of food waste is recovered, and a majority of food waste remains in the black bin destined for landfill. The recommendation is to require food waste collection in the green bin to be subject to the same black bin standard of 75% organics recovery. This can be achieved with a quantitative audit of the green and black bins at the same frequency as the measurement frequency of the high diversion organics processing facility. This revision is necessary to ensure the success of SB 1383 by: (1) eliminating a loop hole that would result in little organics capture and would be a preferred path of least resistance, (2) ensuring that any collection selected by a jurisdiction results in a majority organics diverted from landfill, and (3) providing jurisdictions with options that are equitable so no one option is viewed as "easier" to satisfy and jurisdiction can make the best decision for their constituencies."</p>	<p>Comment noted. The commenter argues that the regulations must be structured in a way that protects the existing investments of their members. Specifically, the commenter is referring to collection services and material recovery facilities that were established to process mixed waste. CalRecycle has sought to address this concern in a manner that is also in compliance with the statutory targets and requirements. As noted in the Initial Statement of Reasons, which was released for public review in January of 2019:</p> <p>"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 demonstrate they are capable of recovering 75 percent of the organic content received from the mixed waste stream on an annual basis. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements."</p> <p>The ISOR goes on to note that CalRecycle crafted regulations to allow for mixed waste collection provided that these collection services transport collected material to a facility that recovers 50 percent of the organic content it received by 2022 and 75 percent by 2025:</p> <p>"With very few exceptions, unique materials can only be processed and recovered when they are kept separate from other materials. This is primarily due to the fact that distinct materials are recovered through separate processes that are specifically designed to handle only that type of material. For example, 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.</p> <p>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 source separate organic waste.</p> <p>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 that statutory organic waste recovery targets.</p> <p>To respond to stakeholder requests for additionally flexibility CalRecycle crafted this section and Section 18984.2. These sections allow alternatives to providing a three-container source-separated organic waste collection service. Under these section jurisdictions are allowed to require their generators to use a service that does not provide the generators the opportunity 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, these collections services are required to transport the containers that include organic waste to high diversion organic waste processing</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>facilities that meet minimum organic content recovery rates (content recovery rates are specified in Subdivision (b) of this section)..."</p> <p>The commenter has stated in each comment period, that they believe the requirement to recover 75 percent of the organic content collected in these mixed waste collection services is unrealistic and infeasible. In turn CalRecycle staff repeatedly communicated to the commenter that the recovery targets cannot be lowered without compromising the integrity of the regulations. This was further documented for this commenter and the public in the ISOR:</p> <p>"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.</p> <p>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.</p> <p>Therefore, in order to meet the recovery targets specified in statute and the state's ultimate climate goals the recovery standards included in this section are the minimum standards necessary.</p> <p>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 of no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 26 million tons of organic waste by 2025, recovering 75 percent of 25 million tons will only reduce disposal to slightly more than 6 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."</p> <p>CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the minimum level that the statute can tolerate. The commenter suggests existing infrastructure that cannot meet this standard should be "protected" or provided a "safe-harbor." The commenter requests changes in the proposed regulations that cannot be reconciled with the statutory targets because CalRecycle finds that it cannot propose a regulation consistent with a statutory 2025 target that permits an unknown portion of the state from implementing the requirements necessary to achieve that target.</p> <p>CalRecycle acknowledges the role of existing infrastructure and acknowledges that previous investments in infrastructure were consciously made to achieve targets that were established prior to the adoption of SB 1383. However, the legislative direction in SB 1383 is unmistakably clear. The Legislature required CalRecycle to adopt regulations to achieve mandatory organic waste reduction levels. Nothing in the regulations prevents facility operators or jurisdictions from</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>investing in facility upgrades or adapting existing facilities to process waste in a manner that meets the minimum regulatory requirements.</p> <p>Comment noted. CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
4002	Tseng, E, LA LEA	If a 75% recovery rate is going to be required of mixed waste processing to recover organics, maybe even a higher recovery rate is required of a feedstock (greenwaste and foodwaste) should be considered for this potentially already source separated feedstock stream.	Comment noted. Facilities that receive source separated organic waste collection stream would not be subject to the recovery efficiency requirement but would be required to comply with the limitation of no more than 20% of organic waste on and after 2022 and 10% on and after 2024 sent for disposal.
4003	Tseng, E, LA LEA	Since "green bin" will still most likely will not meet the definition of "clean green" (1% contamination), the LEAs has been requiring processing of the greenwaste be permitted as a "transfer station", essentially a "mixed waste processing facility".	Comment noted. Comment is not commenting on the regulatory language.
4004	Tseng, E, LA LEA	what happens when the facility only achieves a 73% diversion rate"	Section 18984.3 allows for some fluctuation in diversion rate before a facility is disqualified from being a high diversion organic waste processing facility. The measurement is based on either two (2) consecutive quarterly reporting periods or three (3) quarterly reporting periods within three (3) years.
4005	Tseng, E, LA LEA	How is diversion rate defined?	The term "diversion rate" is not defined because the term is not used in the proposed regulations. SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025, which has been mentioned throughout the regulations. However, recovery efficiency is used to determine if transfer/processing facility meets the definition of a "High diversion organic waste processing facility" which is defined in Section 18982(a)(33).
4006	Tseng, E, LA LEA	What happens if the facility can technically process and recover 80% of the targeted materials, but there is no actually no market for the materials (beyond the control of processing facility)? Market based determination for recover rates ties "market conditions" to processing recovery efficiency.	The market for processed materials is not directly relevant to the volume of organics that a facility can recovery from the waste stream.
4007	Tseng, E, LA LEA	Month to month waste compostion variations can make the recovery rate vary significantly	Comment noted. The commenter is expressing an opinion regarding the frequency of waste composition evaluations.
4008	Tseng, E, LA LEA	Processing line operations offer flexibility in how materials are processed on a day to day basis depending upon the wastestream, ... bidirection conveyors, unit process bypass, emergency mode operations are all part of the overall factors that have to be accounted for as part of developing a "recovery efficiency rate", and is extremely complex. Processing recovery rates can chance dramatically depending upon the wasteshed, weather conditions, changes in the materials in the	CalRecycle has revised the sections to phase in the acceptable levels of incompatible material and the acceptable levels of organic waste in the material sent to disposal. The phase in will allow entities time to plan and make any adjustments in order to comply with the revised acceptable limits of 20% on and after 2022 and 10% on and after 2024. This is necessary to ensure that the organic waste recovery target established in statute can be met.

Comment Number	Received From	Question/Comment	Response(s)
		wastestream itself. Setting a "minimum recovery rate" as a threshold and not accounting for conditions that a facility does not have control over, e.g., market conditions for recovered materials, changes in the wasteshed, etc. does not make for a reasonable regulatory infrastructure.	
4009	Tseng, E, LA LEA	General comment, if you are trying to encourage the building of an organics infrastructure, there needs to be a more "supportive" regulation/legislation, and there needs to be a much more holistic approach (e.g., integrated waste management with conversion technologies) like they do in the European Union and in Asia (specifically Japan, where they are able to achieve over 90% diversion from landfill disposal	Comment noted. The commenter is expressing an opinion regarding the overall regulatory model used by CalRecycle. CalRecycle has determined this model is necessary to achieve the ambitious organic waste diversion mandate in statute.
2017	Vaccaro, Larry; Athens Environmental Services De Garmo Office	How will 20% success be known? In other words, how would we know what 100% edible originally was?	CalRecycle's 2018 statewide waste characterization studies will be used to help measure the edible food baseline for SB 1383. CalRecycle's 2018 disposal-based and generator-based waste characterization studies sorted food waste into eight categories based on the edibility of the food that was disposed. CalRecycle will measure the state's success toward achieving the 20% edible food recovery goal by analyzing the reports that each jurisdiction is required to submit on the total pounds recovered from commercial edible food generators in the previous calendar year.
6084	Vaus, S., City of Poway	Infrastructure Capacity: California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. While the City's waste hauler, EDCO, is in the process of building an anaerobic digestion (AD) facility to serve our region, many cities throughout the state will not be able to comply with the organic waste diversion requirements due to a lack of waste disposal infrastructure. To meet these goals, California will need billions in capital investment to incentivize and assist in the building of AD facilities. The Governor's proposed cap and trade plan includes a wholly inadequate \$25 million in funding for waste diversion for its FY 19-20 budget. Capacity is a statewide issue that is tied to resources and, unfortunately, this requirement is beyond the ability of most local jurisdictions to achieve and should be part of a broader effort focused on the development of organic infrastructure and associated funding in California.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
6085	Vaus, S., City of Poway	Re: Article 3, Section 18984.5.) -- It is not reasonable to determine and identify individual generators that contaminate a route unless containers are checked individually. Our residential curbside program utilizes automated side loading vehicles and covered bins. Adhering to the proposed regulations would require route drivers to physically examine thousands of containers on each route daily and/or require additional staffing resources to inspect individual bins stop by stop,	During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.

Comment Number	Received From	Question/Comment	Response(s)
		<p>resulting in slower service levels and increased costs. The City recommends exempting single-family and multi-family residential routes from this requirement.</p>	<p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
6086	Vaus, S., City of Poway	<p>the monitoring requirements of edible food generators and food recovery efforts (Article 10) is an onerous task passed onto local government and on local businesses.</p>	<p>Removing the requirement to monitor compliance would remove enforcement from the edible food recovery regulations making it voluntary for commercial edible food generators to recover their edible food, which is the current situation in California. CalRecycle has seen that when food donation is voluntary millions of pounds of edible food are sent to landfills rather than being put to the highest and best use of helping feed people in need. Monitoring compliance is critical for helping California achieve SB 1383's 20% edible food recovery goal and therefore was not removed from the regulations.</p>
6087	Vaus, S., City of Poway	<p>An edible food generator that is required to collect multiple series of information (e.g., food recovery contractor, types of food to be recovered, collection frequency, quantity of food collected and transported, etc.) results in a significant administrative and logistical burden for small businesses to manage their excess edible food, if they generate any, until it can be retrieved by a good recovery organization. The burden on the City to monitor and enforce the proposed rules related to edible food generators and food recovery creates an adversarial and punitive tone to a program that intends positive and beneficial outcomes for those in need in our community. The City recommends allowing greater local control in developing programs to address food recovery for community benefit.</p>	<p>A change to the regulatory text was not necessary because without the recordkeeping requirements for commercial edible food generators, jurisdictions will not be able to verify if a commercial edible food generator is complying with SB 1383's edible food recovery regulations. The recordkeeping requirements are a critical enforcement mechanism. For that reason, they were not removed from the regulatory text. Another reason why the regulatory text was not changed is because when edible food generators consistently track their donations over time, they are more likely to source reduce the amount of surplus edible food they generate. Prior to 2022, CalRecycle does intend on making SB 1383 recordkeeping tools available to assist commercial edible food generators with compliance.</p> <p>CalRecycle would also like to note that that in many, (if not most) cases, well-established food recovery organizations and services already provide their donors with some kind of receipt of donation that often has the amount of food donated. Many organizations do this to provide their donors with information that will help the donor if they intend on claiming any of the tax incentives offered for food donation.</p> <p>Regarding the comment, "The City recommends allowing greater local control in developing programs to address food recovery for community benefit." Cities have been given control over</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>developing their own food recovery programs under AB 1826. While some cities have made significant efforts to recover surplus edible food, many cities have not, and as a result, millions of pounds of edible food are still being disposed in California’s landfills. SB 1383’s statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. In order to meet this goal, SB 1383’s regulations include requirements that jurisdictions shall implement edible food recovery programs that include critical requirements such as educating commercial edible food generators about their requirements under SB 1383, monitoring commercial edible food generator compliance, and expanding edible food recovery capacity if additional capacity is needed in the jurisdiction. These key requirements are critical to help ensure that millions of pounds of recoverable edible food stay out of landfills and to help the state achieve its 20% edible food recovery goal.</p>
6088	Vaus, S., City of Poway	<p>The proposed regulations include new procurement requirements (Article 12) that require local governments to purchase recovered organic waste product and recycled content paper within targeted requirements established by CalRecycle. These requirements will result in substantial costs to local governments, over and above the costs we already anticipate will comply with the extensive programmatic requirements of the proposed regulations. The City views this procurement regulation as an unfunded mandate, as the regulation would impose a new program on cities without a state funding source.</p>	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a</p>

Comment Number	Received From	Question/Comment	Response(s)
			form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.
6089	Vaus, S., City of Poway	Local jurisdictions carry the burden in the implementation of SB 1383 through applicable account (generator and hauler) record keeping, various inspections for compliance, and addressing of complaints and issuing violations. The proposed regulations place a tremendous amount of responsibility on the Enforcement and Recordkeeping sections (Articles 13 and 14) which will require the City to divert scarce funds and resources away from initiatives to an enforcement-based system. The City recommends reducing the burden of enforcement and record keeping so that the City may prioritize program development.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
6090	Vaus, S., City of Poway	Finally, we believe the set of penalties (Article 16) included in the proposed regulations are onerous and premature. Given the challenges ahead, a schedule of penalties should be developed after the implementation of programs in 2022. It is very difficult to determine at this moment whether the penalties are appropriate if we have not implemented this new, aggressive program. The City requests that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
3822	Vazifdar, K., Los Angeles County Public Works	Who is responsible for monitoring and enforcing solid waste facilities' compliance with the SB 1383 regulations? Will it be the responsibility of local jurisdictions/LEAs or of the state?	Comment noted. Local Enforcement Agencies, including Counties where CalRecycle is the EA, will be responsible for enforcing compliance at solid waste facilities and operations with SB 1383 regulations.
3057	Vinatieri, J., City of Whittier	Many of the City's existing trash enclosures and alleys in our Uptown Historic District lack space for additional bins for organics.	The regulations provide for physical space waivers for commercial businesses. According to jurisdictions with similar space constraints waivers, very few businesses can demonstrate the existences of space constraints that cannot be addressed. There are few instances where a business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers are downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). This waiver intends to allow flexibility for businesses with legitimate and cost-prohibitive space constraints without compromising the state's ability to achieve the organic waste reduction targets. Allowing existing business that do have the ability to implement organic waste collection be grandfathered into the space waiver would reduce the state's ability to achieve the established organic waste diversion and greenhouse gas reduction targets. Also, there is no requirement to re-inspect on a particular frequency. If the space issue was resolved, then the waiver would be rescinded.

Comment Number	Received From	Question/Comment	Response(s)
3058	Vinatieri, J., City of Whittier	<p>The regulation requiring the jurisdiction or its designee to contact or provide written notice to the generator upon finding prohibited contaminants in a container is not feasible. To determine and identify individual generators that contaminate a route, containers must be checked individually. Our residential curbside program utilizes automated side loading vehicles and covered bins. Adhereing to the proposed legislation would require route drivers to physically examine hundreds of containers on each route on a daily basis and additional staffing resoures to manage the processing of notices. The City recommends at a minimum to exempt residential routes from this requirement.</p>	<p>Comment noted. Under Section 18995.1, states that a jurisdiction shall conduct a sufficient number of route reviews and inspections of entities to adequately determine overall compliance with the Chapter. It is not intended for a route review to include the inspection of every container on a route, but a random sampling of containers during the year. Section 18995.1 also states a jurisdiction shall have an overall inspection and enforcement program that is designed to ensure overall compliance with the Chapter. This allows the jurisdiction the flexibility and discretion to develop programs that set minimum standards and best fits their jurisdiction. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term ‘physically.’ This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of “route review” in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3059	Vinatieri, J., City of Whittier	<p>Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state. Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that</p>

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			<p>was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3060	Vinatieri, J., City of Whittier	<p>Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Whittier and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.</p>	<p>SB 1383 provides statutory authority for jurisdictions to charge fees to offset the cost of complying with the proposed regulations. In addition, CalRecycle is looking into opportunities to direct additional funding to assist in local jurisdiction compliance.</p>
3061	Vinatieri, J., City of Whittier	<p>Enforcement: These regulations allow for Corrective Action Plans and establish extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety</p>	<p>Comment noted, the comment does not recommend a regulatory change.</p>
3062	Vinatieri, J., City of Whittier	<p>Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.</p>	<p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate. First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)). Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p>
3063	Vinatieri, J., City of Whittier	<p>Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by Cal Recycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations. We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding. The City of Whittier further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even if a fee were to survive scrutiny under Prop. 26, it is questionable whether a city would have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.). This latter concern is currently the subject of litigation in the Third District Court of Appeals (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Whittier requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>CalRecycle has determined that the procurement requirements are necessary to achieve the organic waste diversion targets in statute by ensuring an end use for processed organic waste. In addition, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>Regarding "substantial additional costs," a change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in "substantial additional costs".</p> <p>CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p>
3661	Vu, C., City of Bell Gardens	<p>Section 18984.7 -This section requires that containers at the end of their useful life are replaced with SB 1383 color-compliant containers. This may lead to conflicts with current color schemes, or at a minimum may lead to containers of inconsistent colors throughout a jurisdiction. Inconsistent coloring dispersed throughout jurisdiction makes education and outreach a challenge as customers with different colored containers will require different messaging. Furthermore, this approach does not consider current container inventories that have already been procured to replace containers at the end of their useful life.</p> <p>The City recommends that Ca/Recycle eliminate the need to replace containers at the end of their useful life with SB 1383 co/or-compliant containers, and instead mandate that all containers comply with the color requirements described above by 2032. This will allow jurisdictions to utilize current container inventories and allow for a uniform replacement of new containers and messaging throughout the jurisdiction.</p>	<p>Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. CalRecycle understands that metal containers are likely to last longer than plastic ones. However, metal containers can be and are repainted occasionally. Repainting large, roll-off metal bins would need to comply with the VOC emission limits of the particular air district where the painting is done. VOC emissions limits in a particular air district depend on several factors, including but not limited to the size (and material) of the container, the type(s) of coating used, and the type of drying process. Based on discussions with the South Coast Air Quality Management District, which has one of the more stringent air quality standards for VOC emissions, there are appropriate paints that could be used to paint roll-offs and metal containers that would adhere to local VOC limits such as SCAQMD Rule 1125 for smaller metal containers and Rule 1107 for metal parts and products.</p> <p>Hauling industry representatives recommend a 10-year period because that is the industry standard that is built into their contracts. Regarding lids on metal containers, the regulations allow a lid to be replaced either at the end of its useful life or by 2036, which provides a less burdensome option than replacing the entire metal container. Nothing prohibits a jurisdiction from painting metal containers and lids at an earlier time. In addition, the regulations already allow containers including their lids to be replaced at the end of their useful life. Jurisdictions may use inventory purchased prior to 2022.</p>

Comment Number	Received From	Question/Comment	Response(s)
3662	Vu, C., City of Bell Gardens	<p>Article 1 - Definitions Section 18982(a){51} - This section includes "building insulation and panels" in the definition of paper products. Unlike the other materials included in the definition of paper products, building insulation and panels are most frequently not made of paper. In addition, some insulation has a single paper backing to fiberglass layers which is not practically separable from the fiberglass. Since the regulations of "organic waste" includes paper products, the inclusion of building insulation may lead to confusion and potential contamination. The City recommends that "building insulation and panels" be removed from this definition. Alternatively, the definition could be enhanced to specify which types of insulation and panels are included (e.g. compostable insulation).</p>	<p>CalRecycle has revised Section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in Section 18993.3(c)(2) and therefore agrees with the proposed revision.</p>
3663	Vu, C., City of Bell Gardens	<p>Article 3 - Mandatory Organic Waste Collection Section 18984.l(a){S}{A} - This section states that carpets, non-compostable paper and hazardous wood waste are prohibited from being placed in the green container. This subset is limited in scope and should be expanded. Currently the California Department of Food and Agriculture (COCA) restricts movement of certain organics within quarantine zones and this material should not be included in the green containers. This is addressed elsewhere in the proposed regulation text for non-local entities and at the facility level when measuring organic recovery rates, but not at the point of collection. The City recommends that Ca/Recycle amend the list of prohibited materials to include "material subject to a quarantine on movement issued by a county agricultural commissioner." Alternatively, the definition of organic waste in Section 18982(0){46} could be amended to state "material subject to a quarantine on movement issued by a county agricultural commissioner is considered incompatible materials rather than organic waste."</p>	<p>Thank you for the comment. CalRecycle added language in Section 18984.13 to address quarantined waste.</p>
3664	Vu, C., City of Bell Gardens	<p>Section 18984.11(a){2} - This subsection allows for jurisdictions to waive organics program requirements due to limited physical space. There are certainly locations around the state that will have trouble finding space to accommodate additional service containers and it seems appropriate and necessary to allow for some waiver. However, those waivers could potentially exempt a significant number of generators in older buildings and in urban areas where parking and rentable space are highly valuable. In addition, in nonexclusive service areas, the ability of the hauler to sign off on the space accommodation waiver may result in a "race to the bottom" with some haulers signing off on those waivers in order to undercut competition, avoid providing organics recycling service, and gain business. The City recommends that Ca/Recycle clarify what constitutes "evidence demonstrating a lack of adequate space." Implementing standards, a process for allowing potential waivers for space constraints, or minimum documentation requirements will encourage a consistent application of this section across jurisdictions, as opposed to leaving interpretation up to the Local Enforcement Agencies.</p>	<p>CalRecycle has not included implementation standards or minimum documentation requirements to allow jurisdictions set appropriate criteria. Jurisdictions, not haulers, administer the waiver, so the physical space waiver will not result in a race to the bottom in nonexclusive service areas. A hauler, licensed architect, or licensed engineer may provide evidence that a premise has a legitimate space constraint. If a jurisdiction has concerns about haulers in nonexclusive service areas, they can opt not to issue waivers or use a qualified source other than a hauler to demonstrate lack of adequate space for separate organic waste containers.</p>

Comment Number	Received From	Question/Comment	Response(s)
3665	Vu, C., City of Bell Gardens	Section 18986.l(a)(l)(A) - This section states that textiles, carpets, plastic coated paper, and human or pet waste may not be collected in the blue container for non-local entities. This requirement appears to be incongruent with the requirements placed on local entities. The City recommends that Ca/Recycle amend the definition to align with the requirements placed on jurisdictions in Sections 18984.1 and 18984.2.	Thank you for the comment. CalRecycle amended the applicable sections for consistency.
3666	Vu, C., City of Bell Gardens	Section 18985.l(f)- This section requires public education materials in various languages if more than 5% of the jurisdiction's population is identified as a "limited English speaking household," or as "linguistically isolated" by the U.S Census Bureau. This can be burdensome, particularly if a community has several different languages spoken among its population. The City recommends that Ca/Recycle consider increasing the percentage threshold to reduce the cost associated with preparation of public education materials in multiple languages, and/or allow for the compliance to be accomplished with a short statement (in the applicable language) that directs the non-English speaking person to the jurisdiction's website for materials in other languages, or allows for graphic-rich public education materials as a possible substitute.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3667	Vu, C., City of Bell Gardens	Section 18985.2(a) - This section requires that each jurisdiction develop a list of edible food recovery services and organizations operating within each jurisdiction and post the information on their website. It seems that many food recovery service providers and organizations work across jurisdictional boundaries including across county boundaries. There may be a significant amount of duplication of effort and dozens of inquiries to the food recovery services and organizations (who are typically short-staffed, understaffed or run by volunteers). The City recommends that Ca/Recycle consider establishing a State-wide database similar to FACIT where food recovery service providers and organizations can register and provide their information once for access to all jurisdictions and generators. This would also allow for a comparable level of information to be requested and provided in these lists (such as what type of food will and will not be accepted). Alternatively, Ca/Recycle may want to consider establishing the generation of the list as a county requirement with the posting of the county-produced list on a jurisdiction's website as a jurisdictional requirement.	Although CalRecycle intends on providing tools and resources prior to 2022 to assist with SB 1383 edible food recovery regulatory compliance, it is critical that jurisdictions develop their own lists of food recovery organizations and food recovery services operating in their area. Developing a list that includes food recovery organizations and services that have sufficient capacity and a proven track record of safely and efficiently recovering food for human consumption will help jurisdictions assess their existing edible food recovery capacity and identify capacity needs that exist. In addition, developing local lists will help commercial edible food generators find organizations and services that are capable of safely handling and distributing recovered food on a regular basis in their area. The list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby help ensure that edible food in the jurisdiction is not sent to landfills, but rather put to its highest and best use of helping feed people in need.
3668	Vu, C., City of Bell Gardens	Section 18990.1.l(b)(2) - The provisions of this section appear to prohibit a local agency from reserving available capacity at a facility for generators in that jurisdiction. If a local agency provides the funding and/or assurance of material flow that enables the development of organics processing infrastructure, that agency should, reasonably, have the ability to reserve that infrastructure for the benefit of their constituents and/or ratepayers. Additionally, if a local agency acts as a host for an organics processing facility and accepts the real and perceived negative impacts of such facilities on the community, it seems reasonable that the agency should be entitled to establish "host mitigation fees" on materials originating outside that jurisdiction. These sorts of fees are common in the solid waste industry in California	Read together, section 18990.1 (b) (3) prohibits a local ordinance that restricts flow, and section 18990.1 (c) (4) allows for contractual relationships, which does not restrict the flow of materials. Furthermore, section 18990.1 (c) (1) allows facilities to reject organic waste from outside jurisdictions that does not meet quality standards established by a facility or operation, and section 18990.1 (c) (2) allows a jurisdiction to arrange for reserved capacity at a facility for organic waste from the jurisdiction. A change to the regulatory text is not necessary.

Comment Number	Received From	Question/Comment	Response(s)
		<p>and may tend to reward communities that are willing and able to overcome "NIMBY" concerns.</p> <p>The City recommends eliminating or clarifying the provisions of this subsection. The City would particularly like to see the ability to reserve capacity for facilities partially or fully funded by the jurisdiction.</p>	
3669	Vu, C., City of Bell Gardens	<p>Section 18992.(c)(2)(A) - This section requires that counties, in coordination with their cities, estimate the amount of organics disposed, the amount of verifiably available organics recovery capacity, and the estimated additional capacity needed to comply with state goals, through consultation with the Enforcement Agency, the local task force, haulers, facility operators and owners, and community composting facilities. The City believes that the capacity planning process tasked to counties and cities described in this section is critical to ensuring that California "right sizes" its investment in organics infrastructure and can rely upon the information generated by this process for future planning. The methodology proposed is generally reasonable and the flexibility to use other reasonable methods of estimation, where appropriate, will allow jurisdictions to approach this exercise in different ways based on local needs and conditions. That said, the completeness and accuracy of the data collection is entirely dependent upon the cooperation of and provision of data by the facilities in question. All too often, processing facilities provide incomplete information in response to capacity studies or simply decline to participate at all. If CalRecycle intends to require that public agencies conduct the process described herein, it seems reasonable to require participation and provision of accurate information by the facility operators. While this subsection requires that entities contacted respond to the jurisdictions request, there are no mandatory timeframes or prescribed penalties for their inability or unwillingness to comply.</p> <p>The City recommends establishing a timeframe in which entities must reply to jurisdictions, as well as an enforcement mechanism (perhaps an addition to Article 16). Ideally, Ca/Recycle would handle the enforcement of this since many jurisdictions may be seeking information and capacity outside of their jurisdiction, which impacts their ability to legally enforce any fines levied.</p>	<p>Thank you for the comment. CalRecycle has revised Section 18992.2(b) to create a new subsection and add the same language in this subsection that is also provided in Section 18992.1(b)(1). In addition, CalRecycle has revised Section 18992.2 by adding a new subsection (Section 18992.2(b)(1)) to add a 60-day requirement for edible food recovery organizations to provide the required information to jurisdictions.</p>
3670	Vu, C., City of Bell Gardens	<p>Section 18993.(f) - The provisions of this section require that jurisdictions procure a minimum amount of recycled organic waste products (compost and renewable transportation fuel) annually, or contract with direct service providers to procure these materials. The City believes that the requirement to procure recycled organic waste products is limited in scope as to the types of products that may be procured. The City recommends that CalRecycle add ground cover, mulch, soil amendments, and an allowance for additional recycled organic waste products (as approved by Ca/Recycle) to account for future technological and product developments. Soil amendments are considered a reduction in landfill disposal per Section 18983.(b)(S) and therefore should also be an acceptable form of recovered organic waste for procurement to close the loop. Furthermore, it would be beneficial for Ca/Recycle</p>	<p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>Regarding soil amendments and adding an option for approval of "future technological and product developments", CalRecycle disagrees due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of "soil amendments" and "future technological and product development" raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. CalRecycle has also added language to clarify that procured</p>

Comment Number	Received From	Question/Comment	Response(s)
		to post a list of approved recycled organic waste products on their website so that other jurisdictions are aware of additional procurement opportunities. Additionally, it may be useful for Ca/Recycle to have a vendor web portal that allows jurisdictions to procure recovered organic waste products from other jurisdictions or companies who output more products than they can currently utilize.	compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. If soil amendments meet that criteria, they may be considered compost. Regarding posting a list of approved products, once the regulations are finalized CalRecycle will develop tools to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products.
3671	Vu, C., City of Bell Gardens	Section 18982(a)(65) - This section defines a route review as visual inspection of containers along a hauler route for the purpose of determining container contamination. Without specifying a minimum quantity of inspections per route, the regulations may result in a "race to the bottom" where haulers or jurisdictions are inspecting minimal containers per route. Another concern is an inconsistent interpretation or application of the minimum standards by Local Enforcement Agents. The City recommends that Ca/Recycle amend this definition or the corresponding enforcement section {18984.5} to specify a minimum percentage of containers or customers along the route to be inspected. This approach will allow for a consistent application of the regulations across jurisdictions and ensure that the intent of this section is realized.	For clarity, the regulations allow the jurisdictions to determine random selection, which is the least costly and burdensome approach compared to requiring statistically significant sampling.
3672	Vu, C., City of Bell Gardens	General - This article will require a significant expenditure by jurisdictions throughout California to staff the enforcement efforts, including but not limited to: route reviews, compliance reviews, contamination monitoring, follow-up site visits, and the issuing of fines. Some agencies will choose to hire staff or incorporate these responsibilities into the work performed by existing code enforcement officers and/or health inspectors. In some agencies, there may not be a sufficient workload created by these requirements to justify a full time position. In yet other agencies, there may be political objections to funding staffing for this type of enforcement when other critical public health and safety matters are under-enforced. During the enforcement workshop, Cal Recycle suggested the potential for CalRecycle to perform the enforcement on behalf of agencies, similar to how agencies can arrange for Cal Recycle to be the Local Enforcement Agency for regulating solid waste facilities. The City recommends that Ca/Recycle provide an option for jurisdictions to contract with Ca/Recycle to perform the inspection and enforcement procedures.	A change to the regulatory text is not necessary. CalRecycle will not be contracting with jurisdictions to perform inspection and enforcement actions. There are insufficient resources at the state level to contract out for jurisdictions.
3673	Vu, C., City of Bell Gardens	Section 18995.1(a)(1)(A) - This section states that compliance reviews and route reviews shall be conducted to ensure compliance with the generator requirements outlined in Section 18984.9. and 18982(a)(65). Under Section 18984.9(b) it states that commercial businesses shall periodically inspect organic waste containers for contamination and inform employees if containers are contaminated. It is unrealistic to expect that a jurisdictions designee will be monitoring communication	CalRecycle has revised section 18995.1(a)(1)(A) in response to this comment. Section 18995.1(a)(1)(A) has been revised to state that a jurisdiction shall determine compliance with the organic waste generator requirements set forth in section 18984.9(a). The clarification was added by adding the (a) to exempt jurisdictions from the requirements in subsections (b) through (e) of section 18984.9.

Comment Number	Received From	Question/Comment	Response(s)
		<p>between businesses and their employees.</p> <p>The City recommends that Section 18995.1(a)(1)(A) be amended to require that compliance reviews and route reviews ensure compliance with the generator requirements set forth in Section 18984.9. This will align the requirements of Section 18995.1(a)(1)(A) with the definitions specified in Article 1.</p>	
3674	Vu, C., City of Bell Gardens	<p>Section 18997.2(d) - This section states that the penalty amount for each violation (subject to range limitations) will be determined through a qualitative process. It is likely that the current process will result in an uneven application of fines across jurisdictions. Furthermore, the consideration of "the ability for a violator to pay" under Section 18997.2(d) seems to bias the amount of fines based on a jurisdiction's financial position.</p> <p>The City recommends that this section be amended to include a quantifiable formula for determination of fines that eliminates subjectivity and the potential for inconsistent application. For example, the severity of a fine within the currently prescribed range could be tied to the population of a jurisdiction. Alternatively, the base tables in Section 18997.2(c) could be changed to singular figures, as opposed to ranges, eliminating the current subjectivity. The fine structure is already progressive for subsequent failures to comply and therefore negates the need to assess the penalties based on the "willfulness of a jurisdiction's misconduct."</p>	<p>A change to the regulatory text is not necessary. Section 18997.3(d) has been changed to 18997.3(c) due to deletion of the penalty tables and the addition of the new penalty structure outlined in section 18997.3(b). The factors listed in Section 18997.3(c) are commonly used when determining a penalty amount. The penalty range may be used to consider aspects such as but limited to, the population of a jurisdiction. CalRecycle will not be including a quantifiable penalty formula in the regulations.</p>
3675	Vu, C., City of Bell Gardens	<p>Section 18997.5(d) - This section states that upon receipt of an accusation of violation, a jurisdiction has 15 days to file a request for a hearing. Additionally, this section prescribes an expedited time frame for imposition of penalties, leaving jurisdictions little time to investigate potential violations and respond thoughtfully. Given that responsibilities may be designated to haulers or other entities, it is even more unlikely that a thoughtful response could be drafted within the mandated timeframes.</p> <p>The City recommends that jurisdictions receive a minimum of 45 days to investigate the accusation and request a hearing.</p>	<p>The 15 day window for requesting a hearing is modeled on the timeline for regulated solid waste facilities in Public Resources Code Section 44310. Provisions were included in Section 18994.1 for jurisdictions to report the primary contact person in the jurisdiction and the agent for service of enforcement process, if different. The purpose of these provisions was to ensure that enforcement process is routed to the proper individual within a jurisdiction. It is incumbent upon that individual to ensure the process material is routed efficiently and appropriately. In addition, the commencement of a penalty proceeding is only allowed to occur following a notice of violation process in which the jurisdiction will be on notice with an opportunity to correct. By the time a penalty accusation is served, a jurisdiction should be aware of a violation and the issues involved and the informational bar for requesting a hearing is set low.</p>
3676	Vu, C., City of Bell Gardens	<p>Section 18997.5(e) - This section states that if a party waives their right to a hearing, there is a potential to enter a settlement agreement. It is unclear how the settlement process could or should be conducted.</p> <p>The City recommends that this section be amended to provide guidance and parameters for settlements, or at a minimum contains a reference to the appropriate document that does provide this information.</p>	<p>A change in the regulatory text is not necessary. It is unclear on what parameters the commenter is suggesting, but in general, adding such parameters to the language may unduly restrict the discretion of the parties in reaching adequate settlement.</p>
3677	Vu, C., City of Bell Gardens	<p>Section 18995.2 - SB 1383 currently requires a voluminous centralized repository for all information related to SB 1383 programs, which entails over 40 units of observations and potentially millions of data points. Subsection 14.2 (c) requires that the jurisdiction shall provide access to the implementation record within one business day of request. The City believes that this timeframe is unreasonable as City staff may have other priorities or scheduled time off, and it is unfair to jurisdictions to expect that they prioritize CalRecycle over other responsibilities,</p>	<p>CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>particularly in rural or smaller jurisdictions that may have limited staff and budget. The City recommends that the timeframe for providing or reviewing the implementation record be changed for consistency with The California Public Records Act, which indicates an agency must provide the records within a reasonable period of time and allows a ten-day period for response. This allows City staff flexibility to tend to their other responsibilities. Alternatively, Ca/Recycle could require an expedited timeframe only for those cities who have been found to be in violation of the implementation record requirements.</p>	
6243	Wade, S., Coalition for Renewable Natural Gas	<p>...we recommend that the Proposed Rule be amended to recognize any procurement of RNG made by a complying jurisdiction, regardless of end-use sector.</p>	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications. CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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 “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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
6244	Wade, S., Coalition for Renewable Natural Gas	<p>We believe adding the flexibility to recognize all RNG end-uses can easily be accomplished by replacing the term “renewable transportation fuel” with the term “renewable natural gas” throughout the rule and making the following line edits:</p>	<p>CalRecycle revised the proposed regulatory definition from “renewable transportation fuel” to “renewable gas” to allow for the expanded use of renewable gas for transportation fuel, electricity, and heating applications. The broader definition is necessary in order to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Section 18993.1 (g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products: (1) One ton of organic waste in a recovered organic waste product procurement target shall constitute: (A) 19 diesel gallon equivalents, or “DGE,” or 26.89 Therms of renewable transportation fuel natural gas. (B) 0.58 tons of compost. (h) If a jurisdiction’s annual recovered organic waste product procurement target exceeds the jurisdiction’s total procurement of natural gas and transportation fuel and (inclusive of any renewable natural gas transportation fuel) from the previous calendar year as determined by the conversion factors in subdivision (g), the jurisdiction is only required to procure recovered organic waste products described in (f) in an amount equal to its total purchase of natural gas and transportation fuel (inclusive of any renewable natural gas) and renewable transportation fuel from the previous year.</p>	
6245	Wade, S., Coalition for Renewable Natural Gas	<p>Section 18993.2(a)(5) - If a jurisdiction will include transportation fuel renewable natural gas procured from a POTW, a written certification by an authorized representative of the POTW of the tons of landfill-diverted organic waste processed into renewable natural gas provided to the jurisdiction. The certification shall be furnished under penalty of perjury in a form and manner determined by the jurisdiction.</p>	<p>CalRecycle revised the proposed regulatory definition from “renewable transportation fuel” to “renewable gas” to allow for the expanded use of renewable gas for transportation fuel, electricity, and heating applications. The broader definition is necessary in order to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p>
1	Wagner, Emanuel, California Hydrogen Business Council (CHBC)	<p>As currently drafted, the procurement requirement is limited to only two out of potentially hundreds of commodities that can be manufactured from organic waste. We strongly suggest CalRecycle consider not limiting the type of organic commodity to compost and convert to transportation fuel, and instead allow the market to choose the most favorable commodity for each jurisdiction.</p>	<p>CalRecycle has revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. CalRecycle has also revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p>
2	Wagner, Emanuel, California Hydrogen Business Council (CHBC)	<p>The CHBC suggests not restricting the procurement requirements and instead allowing the local government to decide which organic commodity to procure based on the technology available in their jurisdiction.</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs. SB 1383 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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>“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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy’s Economic Analysis.</p>
3	Wagner, Emanuel, California Hydrogen Business Council (CHBC)	<p>However, if CalRecycle cannot simply allow for the procurement of any available organic commodity, then we recommend CalRecycle design a pathway for local governments to gain approval for the procurement of unlisted organic commodities. The precedent was already set for this method in Article 2 Section 18983.1 where CalRecycle allows for other, unlisted diversion technologies to apply, and qualify for a diversion facility determination by stating:</p> <p>(8) Other operations or facilities with processes that reduce short-lived climate pollutants as determined in accordance with Section 18983.2. Section 18983.2: Verification Determination of Technologies That constitutes a “Reduction in Landfill Disposal”, outlining a procedure for applying for qualification as a diversion facility. If a diversion facility qualifies under this provision of the regulation, then the procurement of commodities manufactured by these facilities should be encouraged by CalRecycle and local governments in the procurement requirements of this regulation.</p>	<p>CalRecycle disagrees. The purpose of the current regulatory language is to be consistent with SB 1383 statute that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. In-vessel digestion facilities are solid waste facilities, which allows CalRecycle to verify that these facilities are reducing the disposal of organic waste.</p> <p>Regarding allowing an open-ended pathway. CalRecycle disagrees with this approach for procurement. The broad range of potential recovered organic waste products raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. As noted above, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
5026	Watson, B, City of Arcata	<p>We remain concerned about critical points that hinder our ability to implement the proposed regulation. Recently the biomass facilities in our area have either shut down or curtailed accepting material. We have a single contractor who accepts greenwaste currently and they are ramping up their fees for accepting material. In terms of food waste composting operations existing infrastructure is lacking in our area to accept material. Food waste processing facilities need to be in close proximity to populations to minimize hauling costs and associated GHG from transportation. We promote backyard composting for the residential sector and would be interested in a food waste solution such as local in-vessel composters or digesters associated with wastewater treatment facilities where biogas can be used for energy production. The scale of these facilities are challenging in a remote rural area such as northern Humboldt County.</p> <p>Infrastructure Capacity: As we have noted, California lacks sufficient capacity today to be able to meet the needs for new organic waste processing. Many cities have expressed concern over an ability to comply with organic waste diversion requirements due to a lack of waste disposal infrastructure. There is an uneven distribution of waste disposal infrastructure, such as bio-digesters, across the state.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not</p>

Comment Number	Received From	Question/Comment	Response(s)
		Moreover, where the infrastructure does exist, capacity is limited. While the regulation provides five years to implement programs, cities are concerned that this is not sufficient time to develop and permit new facilities.	provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
5027	Watson, B, City of Arcata	Funding: Lack of sufficient funds continues to be among the major challenges local governments face in the effort to implement new organic waste diversion programs. The City of Arcata and other communities continue to seek solutions to address the need for substantial public sector funding. For example, "Cap-and-Trade" proceeds can be used to help offset the costs for developing organic recycling infrastructure. However, even if additional appropriations were made to the Waste Diversion Program, it will not address much of the local need. Local governments, like ours, continue to work to address the need for funds to undertake prescribed activities, such as updating bins and labels, as well as providing education and outreach.	Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.
5028	Watson, B, City of Arcata	Enforcement: These regulations allow for Corrective Action Plans and establishes extended timelines and milestones for achieving compliance. We appreciate the addition of a pathway to compliance. This is a step in the right direction and we urge careful consideration of the differences among local jurisdictions, as well as the variety of community stakeholders, and infrastructure challenges a local jurisdiction may face. Penalties: The penalties outlined in these regulations are premature. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, this regulation puts the cart before the horse by designing penalties before the sticking points and needs of generators are understood. We encourage CalRecycle to continue working through the programmatic scheme before implementing an appropriate set of penalties, particularly since programs have until 2022 to be implemented. We ask that CalRecycle adopt penalties in a second set of regulations to take effect at a future date.	A change to the regulatory text is not necessary. The legislature specifically authorizes CalRecycle's to develop regulations that "require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." Also, the statute states the regulations "may include penalties to be imposed by the Department." This text clearly authorizes CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction. This approach mirrors CalRecycle's delegated enforcement approach for 5053 waste tire hauler oversight and solid waste facility oversight, where primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. Programs that have enforcement generally see a higher rate of compliance than programs that do not have enforcement. The success of the Short-Lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. Delaying enforcement would impede California's goal of achieving these targets.
5029	Watson, B, City of Arcata	Procurement: New procurement requirements in these proposed regulations require local governments to purchase recovered organic waste products targets set by CalRecycle. We anticipate these requirements will result in substantial additional costs to local governments, over and above the costs we already anticipate to comply with the extensive programmatic requirements of the proposed regulations.	CalRecycle finds that the procurement requirements are necessary as part of this initial rulemaking to achieve the organic waste diversion goals in statute by providing an end use for processed organic waste. In addition, CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.

Comment Number	Received From	Question/Comment	Response(s)
		<p>We ask that CalRecycle instead work to develop markets for such materials in a second regulatory proceeding.</p> <p>The City of Arcata further notes the additional costs that will result from complying with the procurement regulations represent an unfunded state mandate under Cal. Const. Art. XIII B, sec. 6(a) as the regulations would impose a new program on cities and neither the draft regulations nor the Initial Statement of Reasons identifies a state funding source. CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383. Any fee that a city attempted to impose to fund the additional costs of these regulations would likely be treated as a tax under Cal. Const. Art. XIII C, sec. 1 (e) (Prop. 26) as it would not meet any of the exceptions identified in that section. Further, even were a fee to survive scrutiny under Prop. 26, it is questionable whether a city would not have the authority to impose the fee without first complying with the majority protest procedures of Cal. Const. Art. XIII D, sec. 6 (Prop. 218.) This latter concern is currently the subject of litigation in the Third District Court of Appeal (Paradise Irrigation District v. Commission on State Mandates, Case No. C081929). For these additional reasons, The City of Arcata requests that the procurement regulations be addressed in a separate regulatory proceeding.</p>	<p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, “No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.” Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, County of Fresno v. State of California, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a “tax” under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe “any fees” that may in the future be imposed by the numerous local jurisdictions in California as “likely” to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in Paradise Irrigation Dist. v. Commission on State Mandates, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source.</p> <p>Regarding "substantial additional costs," a change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”.</p> <p>CalRecycle disagrees with the suggestion to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p>
6375	Weatherby, T., Second Harvest	As members of the California Association of Food Banks, we have been closely involved in developing these comments and concur with all of them (below), with	While some commenters requested that the threshold be increased from 6 tons to 12 tons, other stakeholders recommended removing the threshold completely so that any food recovery

Comment Number	Received From	Question/Comment	Response(s)
	Food Bank of San Mateo and Santa Clara Counties	<p>one exception. In Article 10, Section 18991.5 below, we would like to see the limit for record keeping set at 20 tons as this requirement can be onerous for many of our smaller partners.</p> <p>Article 10 Section 18991.5. Edible Food Recovery Services and Organizations (a) A food recovery organization or service that collects or receives 12 6 tons or more of edible food from edible food generators per year shall maintain a record that includes all of the following.</p>	<p>organization or food recovery service that contracted with, or had a written agreement with a commercial edible food generator would be required to maintain records and report to the jurisdiction.</p> <p>Another commenter further supported the recommendation to eliminate the 6-ton recordkeeping threshold by stating that the primary focus relative to edible food recovery must be the safe handling of food and protection of public health and safety. The commenter further noted that the ability to track the source of a food borne illness outbreak rests on the ability to trace food product throughout the food supply chain. By allowing a food recovery organization to avoid maintaining a record of where the food was obtained, a serious gap in the investigative traceability process is created. The commenter continued their argument by stating that in their many years of experience working as a food recovery organization, food recovery services and food recovery organizations that are not large enough or are incapable of maintaining a record of the source of the donated food are likely incapable of consistently handling and distributing donated food safely.</p> <p>CalRecycle carefully reviewed each comment that requested to increase the threshold and each comment that requested that the threshold be removed. Upon review and evaluation, a determination was made to remove the recordkeeping threshold for the following reasons. 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 maintain a record 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 the commercial edible food generator recordkeeping section of the regulations.</p> <p>Although all commercial edible food generators are required to maintain records of the food that is recovered from them, in a previous draft of the regulations, not all food recovery organizations and food recovery services were required to maintain records. In a previous 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 commercial edible food generators.</p> <p>The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>food directly from commercial edible food generators, pursuant to Section 18991.3(b) to maintain records of the food they receive from those generators.</p> <p>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 the 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% edible food recovery goal. 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.</p>
5106	Webb, M. City of Davis	<p>The requirement for black, blue and green-lidded bins. Title 14, Chapter 12, Article 3, Section 18984.1</p> <p>This poses a significant challenge for dual-stream single split-cart recycling systems. Requiring a single color lid (blue) to identify a recycling cart will pose issues for cities like Davis with a dual-stream recycling program where paper is collected separately from other recycling. The dual stream process has kept our paper clean and has resulted in a higher quality recycled product. Given the current recycling markets (driven by China's restriction on the import of recyclable material), high quality recycled paper is essential.</p> <p>The recycling industry as a whole is taking a closer look at how to achieve cleaner recycling and a dual-stream system is one of the ways to reach this goal. Davis uses a split-recycling cart for curbside recycling service. The top of these carts have two separate lids-a blue lid for containers and a black lid for paper. These two different colored lids allow residents to easily tell which items go in each side of the cart. Under the proposed regulation, both lids would be required to be blue. This would make it much more challenging to easily differentiate the container side of the cart from the paper side of the cart, particularly if the labels were to come off of it. Having different shades of blue for the lids is not as effective as two completely different colors, especially for residents who have a vision impairment, such as color blindness.</p>	<p>The regulations do not preclude a jurisdiction from having split carts, but in the commenter's scenario this would mean the jurisdiction has a 3-container system that meets the requirements of Section 18984.1. Also, Subsections 18984.1(a)(6)(B) and (C) do not require only that light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container.</p> <p>Further language was added clarifying that a jurisdiction could split the recycling portion of a two-container service to further segregate recyclables, however the gray container would still be required to be transported to a high diversion organic waste processing facility. See statement of purpose and necessity for Section 18984.2</p>
5107	Webb, M. City of Davis	<p>Changing out lids to conform to a design standard will be an unnecessary cost burden on jurisdictions. The City is very appreciative that CalRecycle amended the previous draft of the regulation to require only the lid of the trash, recycling and organics cart to be color-compliant. However, the City is still concerned with the cost and waste associated with having to change out all of the cart lids that are currently being used.</p> <p>Unlike other sections of the regulation that will actively increase access to organics and recycling service and can increase waste diversion, the City does not believe that the expense required to change out lids prior to the end of their useful life is outweighed by the consistency of color coding of bins statewide. The recycling and organics carts that we use in Davis do not conform to the colors identified in the draft regulation. In Davis, commercial recycling carts are green, organics carts have</p>	<p>Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>a brown lid, and the splitrecycling cart has a grey body with a blue and black lid. Replacing lids still within their useful life is wasteful. In 2016, the City began a city-wide organics collection program and issued brand new carts to all our customers. The carts are grey with a brown lid. It is anticipated that these new carts will last at least 20 years. The proposed regulation would require us to change out all of our cart lids far before the end of their useful life. This would not only be extremely costly, but wasteful as well.</p> <p>To this end, the City makes the following requests:</p> <ul style="list-style-type: none"> o Allow increased flexibility for jurisdictions with dual-stream recycling collection systems to color-code their recycling carts. o Rather than require that the entire lid be replaced; allow color-coded labels to be applied to existing bins until the lids/bins are replaced at the end of their useful life with color conforming lids. <p>OR</p> <ul style="list-style-type: none"> o Add some flexibility to the regulations to allow jurisdictions with existing 3-bin systems to be grandfathered in and keep their own color schemes, especially if different colors are being used to indicate different waste streams. Existing containers that are purchased with CalRecycle funds, and approved for purchase by CalRecycle, be grandfathered in and allowed to remain as is. OR Replacing lids still within their useful life is wasteful. In 2016, the City began a city-wide organics collection program and issued brand new carts to all our customers. The carts are grey with a brown lid. It is anticipated that these new carts will last at least 20 years. The proposed regulation would require us to change out all of our cart lids far before the end of their useful life. 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In 2016, the City began a city-wide organics collection program and issued brand new carts to all our customers. The carts are grey with a brown lid. It is anticipated that these new carts will last at least 20 years. The proposed regulation would require us to change out all of our cart lids far before the end of their useful life. This would not only be</p>	<p>waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>extremely costly, but wasteful as well. To this end, the City makes the following requests:</p> <ul style="list-style-type: none"> o Allow increased flexibility for jurisdictions with dual-stream recycling collection systems to color-code their recycling carts. o Rather than require that the entire lid be replaced; allow color-coded labels to be applied to existing bins until the lids/bins are replaced at the end of their useful life with color conforming lids. <p>OR</p> <ul style="list-style-type: none"> o Add some flexibility to the regulations to allow jurisdictions with existing 3-bin systems to be grandfathered in and keep their own color schemes, especially if different colors are being used to indicate different waste streams. Existing containers that are purchased with CalRecycle funds, and approved for purchase by CalRecycle, be grandfathered in and allowed to remain as is. <p>OR Replacing lids still within their useful life is wasteful. In 2016, the City began a city-wide organics collection program and issued brand new carts to all our customers. The carts are grey with a brown lid. It is anticipated that these new carts will last at least 20 years. The proposed regulation would require us to change out all of our cart lids far before the end of their useful life. This would not only be extremely costly, but wasteful as well.</p> <p>To this end, the City makes the following requests:</p> <ul style="list-style-type: none"> o Allow increased flexibility for jurisdictions with dual-stream recycling collection systems to color-code their recycling carts. o Rather than require that the entire lid be replaced; allow color-coded labels to be applied to existing bins until the lids/bins are replaced at the end of their useful life with color conforming lids. <p>OR</p> <ul style="list-style-type: none"> o Add some flexibility to the regulations to allow jurisdictions with existing 3-bin systems to be grandfathered in and keep their own color schemes, especially if different colors are being used to indicate different waste streams. Existing containers that are purchased with CalRecycle funds, and approved for purchase by CalRecycle, be grandfathered in and allowed to remain as is. <p>OR</p> <ul style="list-style-type: none"> o If existing containers will not be grandfathered in, and if no recycling markets exist for the lids, allow the jurisdictions to file for a disaster waste tonnage exemption for lids and bins that are not color compatible. o If CalRecycle will maintain the green, blue and black requirement, consider pushing back the 2032 implementation date as our experience shows that carts can last longer than 15 years. 	
5108	Webb, M. City of Davis	The requirement for food scrap carts to be completely yellow. Title 14, Chapter 12, Article 3, Section 18984.1	CalRecycle responded to stakeholders who initially had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore,

Comment Number	Received From	Question/Comment	Response(s)
		<p>While the earlier draft text was changed to only requiring the lids of trash, recycling and organics bins to be color-compliant, food scrap carts are still required to be completely yellow.</p> <ul style="list-style-type: none"> o In order to be consistent with the regulations, the City requests that the same modifications be made to this requirement-only the lids should be required to be yellow. 	<p>brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic. CalRecycle has revised the definitions of the containers to be consistent with each other. The regulations require the lids or the body of the container to be the required color.</p>
5109	Webb, M. City of Davis	<p>The requirement for all collection containers to have a label that specifies what can and what cannot go into the bin. Title 14, Chapter 12, Article 3, Section 18984.8. The City has found that imprinting labels directly onto container lids last on the lid much longer and do not fall off and contribute to litter. Labeling can be done when lids are replaced as is required by Section 18984.7 in order to be color compliant. However, the lids are not required to be color compliant until 2032 but the labels must be in place by 2022. This would mean that temporary labels are required in the interim; labels which could fall off.</p> <ul style="list-style-type: none"> o The City requests that the labeling of outdoor containers be phased-in on the same timeline as Section 18984.7 (at the end of their useful life, or by January 1, 2032). 	<p>This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers' useful life or by 2036.</p> <p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute's signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage.</p> <p>In regards to the lid comment, a change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>In regards to the new technology, CalRecycle is unclear on how that will help educate the generators.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>he current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
5110	Webb, M. City of Davis	<p>The requirement for all businesses to have recycling and organics bins next to each trash container that conform with the containers provided for collection in both color and labeling obligations.</p> <p>Title 14, Chapter 12, Article 3, Section 18984. 9-10</p> <p>It is not immediately clear if these sections apply only to indoor waste bins with lids, or to all indoor waste bins. Depending on how this is interpreted, the regulation as written could require all indoor bins to have lids and to be color compliant with labels that depict what can and cannot go into them.</p> <p>Given that businesses must be compliant with this requirement no later than January 2, 2022, this does not allow bins that are already in use to reach the end of their useful life. Bins in good condition will be discarded simply because they are not a compliant color, or do not have a color compliant lid. In addition, requiring business to have a blue recycling bin and a green organics bin next to every single trash bin can potentially penalize businesses, many of which have already proactively invested in three bin systems that do not conform to the specified colors.</p> <ul style="list-style-type: none"> o The City also requests that rather than requiring bins or bin lids in businesses to be color compliant, only require the label to be color compliant. <p>OR</p> <ul style="list-style-type: none"> o If the regulation is not modified to allow just the label color to be changed, instead of requiring the entire bin (or lid) to be color compliant, the City requests that businesses with existing three bin systems in place for waste diversion be grandfathered in and allowed to keep their existing waste sorting systems in place. When the time comes for replacement, then the new bins would have to be color compliant. 	<p>CalRecycle revised Section 18984.7(a) in response to this comment to clarify that jurisdictions have to provide containers for the collection service that the jurisdiction implements for organic waste generators, not the indoor bins of businesses. With respect to indoor containers owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.</p> <p>In regards to the interior containers, this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. Those businesses subject to AB 827 will have to meet that statute’s signage requirements. Nothing in these SB 1383 regulations precludes a jurisdiction from requiring businesses to have signage. Businesses are also allowed to replace the indoor container at the end of its functional life. The regulations provide that a jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Container Color Requirements need to be in place by the end of useful life of the containers or prior to January 1, 2036, whichever comes first. The regulations do not specify how containers are phased in. The regulations allow for phasing in at the discretion of the jurisdiction and their designees provided that the correct colors are phased in by 2036. Having a definitive replacement date is necessary to ensure that color is ultimately standardized to support generator education, which will help minimize contamination. Since these regulations will be adopted in early 2020, that will provide another two years, for a total of 16 years, for jurisdictions to plan for replacement of containers. Additionally, during that time nothing precludes a jurisdiction from placing labels on a container. This section is necessary to ensure that containers are properly labeled which is necessary to ensure that collected organic waste is clean and recoverable. The section specifies that a jurisdiction may comply by placing a label (e.g., sticker or hot-print) with text or graphics indicating acceptable materials for that container on the body or lid of the container, or by imprinting text or graphics on the body or lid of the container that indicate which materials may be accepted in that container. The labeling requirements were refined through the informal 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. Correctly-colored labels may be applied to existing bins or lids until the containers are replaced at the end of their useful life.</p> <p>Labeling requirements, commencing January 1, 2022, only apply to new containers or lids. Thus, imprinting of labels would be directly onto new containers, either at the end of old containers’ useful life or by 2036.</p>

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			<p>A jurisdiction's designee can place labels on the containers.</p> <p>The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.</p> <p>A change was made to allow for the exposed portion of lid or body to be required color and to allow the required color to be on either the lid or the body, not just the lid. The change is necessary because this approach is the least costly and burdensome one that still achieves the organics disposal reductions.</p> <p>For the text and graphics, this section references that primary materials must be included. If there is a change in the primary materials, then the information would need to be updated as containers are replaced. The regulations are allowing flexibility on size of the label (text and graphics), the requirement is only for primary materials, and all containers need labels. However, this includes all containers and residential/non-residential. Also, for consistency purposes, CalRecycle revised Section 18984.8(c)(1) to mention primary items.</p> <p>Nothing prohibits jurisdiction from mailing labels for existing containers, in addition to ensuring that new containers are properly labeled.</p> <p>The current text reflects stakeholder input during the informal rulemaking period that it would be costly to place labels on all containers. CalRecycle determined that this change would provide jurisdictions with flexibility to implement less burdensome education methods (e.g., labels on new containers) that ensure organic waste is collected and recovered, to support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. However, nothing in the regulations prohibits a jurisdiction from placing labels on all containers at an earlier time.</p>
5111	Webb, M. City of Davis	<p>All tier 1 and tier 2 commercial edible food generators must keep records of each place they donate food to, all contracts, written agreements or other documents from the food recovery organization(s) they work with, and the quantity of food donated. Article 10, Section 18991.4.</p> <p>Due to many factors, the city anticipates a number of significant challenges in working with restaurants to maintain these records. These factors include high staff turnover, rush hours, language barriers, and hours of operation outside of standard business hours.</p> <p>There is concern that collecting this information on a regular basis may not be feasible, and could create an antagonistic relationship between the city and restaurants should the city have to issue fines for anticipated non-compliance.</p> <p>o If CalRecycle keeps this requirement in the regulations, the City requests that the state maintain an online reporting system that restaurants can use. As most restaurants have a license through the CA Dept. of Alcoholic Beverage Control, the City further requests that the State use their own licensing systems to require edible food generators that have a ABC license to report this information directly to the state, leaving the jurisdictions to manage only the Tier 1 and Tier 2 edible food generators that do not have ABC licenses.</p>	<p>Without the recordkeeping requirements for commercial edible food generators, jurisdictions will not be able to verify if a commercial edible food generator is complying with SB 1383's commercial edible food generator requirements. The recordkeeping requirements are a critical enforcement mechanism. Prior to 2022, CalRecycle does intend on making SB 1383 recordkeeping tools available to commercial edible food generators to assist them with compliance.</p> <p>CalRecycle would also like to note that many well-established food recovery organizations and food recovery services already provide their donors with some kind of receipt of donation that often contains the amount of food that was donated. Many organizations do this to provide their donors with information that will help the donor if they intend on claiming any of the tax incentives offered for food donation.</p> <p>Regarding the comment that the state maintain an online reporting system that restaurants can use, a change to the regulatory text was not necessary. CalRecycle would like to clarify that commercial edible food generators are not required to report any information. Recordkeeping and reporting are different. Commercial edible food generators are however, required to maintain records.</p>

Comment Number	Received From	Question/Comment	Response(s)
5112	Webb, M. City of Davis	<p>Implementation Records and recordkeeping requirements and making records available to CalRecycle within one business day if requested. Article 14, Section 18995.2 (c) There are many items that are required to be included in the implementation record, all of which will require additional time for jurisdictions to compile and to create a new accounting and record system to maintain. These records may compel some jurisdictions, particularly larger ones, to purchase expensive recordkeeping software and database systems, just to ensure compliance.</p> <ul style="list-style-type: none"> o Rather than require each jurisdictions to create their own recordkeeping and data management system in order to maintain compliance with these regulations, the City requests that CalRecycle provide an electronic method for jurisdictions to maintain an Implementation Record. The electronic format may be a formatted Excel Spreadsheet template, a downloadable database software system, or CalRecycle's own online system (such as the CalRecycle online LoGIC system where jurisdictions submit annual reports). An online system hosted by CalRecycle would give CalRecycle continual access to the records. o The requirement that records be made available to CalRecycle within a single business day is not practical. The City requests an allowance of 5 business days to make records available, as five days is much more reasonable and practical. The short turnaround time can serve to penalize smaller jurisdictions with limited staffing. 	<p>Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.</p>
5113	Webb, M. City of Davis	<p>Agencies must provide a method for anyone to report a violation of these regulations, and must provide a method for a complainant to find out the results of their complaint.</p> <p>Article 14, Section 18995.3</p> <p>The City is concerned about the privacy of its residents and customers. Should the result of a complaint investigation be an administrative fine, there is no record to release on the incident, other than a general description of the outcome. The City requests that the language of this section be amended to further protect information that is confidential and allow for general descriptions of outcomes, including "Per CalRecycle regulations, the City is investigating the issue" and "the investigation has been completed and any required actions, if needed, have been taken."</p>	<p>CalRecycle revised 18995.3 was amended to clarify that a jurisdiction is only required to notify the complainant of the results of an investigation if the identify and contact information of the complainant is known.</p> <p>Section 18995.3 was revised in response to this comment.</p> <p>Section 18995.3 requires a jurisdiction to have a procedure for the receipt and investigation of written complaints of alleged violations of this Chapter. The complaint may have the name and contact information of the complainant or the complaint may be anonymous. Regarding confidential information, the Public Records Act governs such situations, the regulations were modified to reflect that, and the Department will not include conflicting requirements.</p>
5114	Webb, M. City of Davis	<p>Financial burden of the draft regulations.</p> <p>It is not an understatement to say that the program implementations, extensive requirements for reporting, contamination monitoring, edible food recovery program, program reporting, recordkeeping, violation reporting and monitoring process, etc. will be a significant cost to jurisdictions and ratepayers. While</p>	<p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>CalRecycle acknowledges that this will be a financial burden, simply anticipating that costs will be passed along to ratepayers in the form of increased solid waste service fees is problematic.</p> <p>The City of Davis is one of many jurisdictions that is required to use the Proposition 218 process to implement solid waste rates. Majority protests from ratepayers rejecting the increases, therefore, could severely limit the ability of these jurisdictions to fulfill the requirements of these new regulations. The City has recently approved a 40% solid waste rate increase that will occur over the next five years, in part to comply with existing (pre- SB 1383) diversion requirements. Placing additional cost burdens on rate payers for unfunded requirements at this time may create a situation where new rates may not be approved per the Prop 218 requirements. Past disputes in the City of Davis over significant water rate increases have resulted in litigation and a citizen referendum to block rate increases, and the City is at risk of similar responses if waste disposal rates again must be increased due to new state mandates.</p> <ul style="list-style-type: none"> o The City requests that CalRecycle provide financial assistance to jurisdictions in the form of grants, payment programs or other methods to assist jurisdictions in complying with these regulations. o Recognizing that in some jurisdictions, solid waste rate increases are required to go through the Proposition 218 process, the City requests that CalRecycle provide options for jurisdictions where this occurs and provide assistance with the 218 process to ensure the success of implementing these mandated programs. 	<p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority . . .'. The [administrative agency] is authorized to 'fill up the details'" of the statutory scheme."</p> <p>Administrative Civil Penalty tables, including "Base Table 6," were deleted from the proposed regulations</p> <p>CalRecycle disagrees with the characterization of procurement requirements as an unfunded mandate.</p> <p>First, the Legislature, in SB 1383, explicitly authorized local jurisdictions to charge and collect fees to recover its costs incurred in complying with the regulations (Pub. Res. Code § 42652.5(b)). In addition, Section 7 of the bill states that, "No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code." Such a fee authorization, and costs being recoverable from sources other than taxes, overcomes any requirement for state subvention of funds for reimbursement for a state mandate (see Gov. Code § 17556, <i>County of Fresno v. State of California</i>, 53 Cal.3d 482 (1991)).</p> <p>Second, local jurisdictions have discretion to design legitimate regulatory fees that charge, collect, and use funds in a manner that meets the exceptions to the definition of a "tax" under Cal. Const. Art. XIII C, Section 1 (e). There are no provisions in the SB 1383 regulations that limit that discretion. As such, it is overbroad and speculative to describe "any fees" that may in the future be imposed by the numerous local jurisdictions in California as "likely" to be treated as taxes. If a fee were to be challenged, the determination would be highly dependent on the particulars of how a local charge is purposed, collected and used. CalRecycle is not aware of any facts indicating that local jurisdictions are outright prevented from designing valid regulatory fees consistent with Prop. 26 and Prop. 218 to offset the costs of complying with SB 1383.</p> <p>According to the October 1, 2018 decision in <i>Paradise Irrigation Dist. v. Commission on State Mandates</i>, a statutory authorization to levy fees, such as that provided in SB 1383, is the relevant and dispositive factor in overcoming claims of subvention for a state mandate. This is true whether or not a local fee is subject to, or defeated by, a majority protest procedure. The court found the protest procedure to be a practical consideration for a local government as opposed to a legal factor in determining a requirement for subvention for a state mandate.</p> <p>Finally, it should be recognized that the procurement requirements are designed to apply to existing needs for a jurisdiction, such as for paper products, compost and mulch, and fuel for</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>transport, heating and electricity, and require jurisdictions to instead purchase that material in a form derived from recovered organic waste. Thus, it is not designed to mandate new purchases but instead to make existing needs purchased from an alternate source</p> <p>Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring “local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.”</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.” The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, “May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance.”</p> <p>Regarding the language “authorizing” penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements “and impose penalties for noncompliance.” Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
5115	Webb, M. City of Davis	<p>In addition to the concerns listed above, the City of Davis requests that as part of these regulations, CalRecycle provide the following resources:</p> <ul style="list-style-type: none"> o Model ordinances. The depth and breadth of what is covered under these new regulations places a particular challenge on jurisdictions to develop language for 	<p>Comment noted. This comment is not specific to any aspect of the regulatory text. CalRecycle intends to provide guidance to jurisdictions throughout 2020 and 2021 prior to the implementation date of the regulatory requirements. CalRecycle will additionally continue to provide regulatory guidance as the regulations take effect.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>enforceable ordinances. Please provide several model ordinances that meet the requirements set forth in these regulations so jurisdictions can choose the ones that work best with the programs already in place.</p> <ul style="list-style-type: none"> o Sample outreach materials. As this regulation provides numerous requirements for specific outreach items, the City requests that the state provide sample outreach pieces in a modifiable form, so that jurisdictions can add their own logo and contact information, distribute the outreach materials and comply with the regulations. o Translated text of all required outreach materials. This translation is particularly needed for topics that cannot be communicated through the use of images and a limited number of words, such as methane reduction benefits of reducing the disposal of organic waste, and the public health and safety and environmental impacts associated with the disposal of organic waste as required in Title 14, Chapter 12, Article 4, Section 18985.1. These translations would need to be listed in multiple languages, including Spanish, Cantonese, Mandarin, Tagalog, Vietnamese, etc., in order for jurisdictions to comply with the translation requirements of this section. As an alternative, the State could offer a free translation service to jurisdictions that need to comply with the regulations. o Compliance training. There are many facets to these regulations which solid waste professionals in California will need training on, including outreach, contamination monitoring, and required reporting. The City requests that CalRecycle provides web-based training via multiple modules to address the different requirements of these regulations. o Training for contamination monitoring. As the regulations require every route to be monitored for contamination every quarter, the City requests that CalRecycle provide web-based training modules on visual contamination estimation, so that waste hauling and solid waste staff can learn to provide an accurate estimation of the percentage of contamination in a bin. o Labels. The requirements to place labels on every single indoor and outdoor bin will require millions of labels. As with all printing projects, bulk purchasing of large quantities is much more cost effective than smaller purchases. Requiring each business to purchase its own labels will be far more expensive than if the State purchases large quantities than offers them for free or at a discounted price. The City requests that CalRecycle provide some method for businesses to order labels for free or at a discounted rate. There is already a precedent set for this as the State offers recycling posters and stickers that can be ordered and shipped in California for free. o Indoor recycling and organics bins. Should the state move forward with the requirement that all single indoor trash bins will be required to have accompanying recycling and organics bins that are color compliant, the City requests that the State create partnerships with bin manufacturers to secure low cost purchasing of color compliant indoor bins for jurisdictions, businesses and schools. 	

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> o Web-based calculation worksheets. In order to identify the tier 1 and 2 edible food generators, as required in Title 14, Chapter 12, Article 10, it would be helpful if CalRecycle could provide a database that can help calculate which businesses are considered Tier 1 and Tier 2 compliant. o Training on Health Code regulations surrounding edible food donation regulations and serving food. The Edible Food Recovery Program described in the regulations is extensive and is outside of the experience of the recycling industry. Requiring professionals within the solid waste industry to manage a food donation program will require a large education campaign for staff and employees. The City requests that CalRecycle provide webinars, online training modules and fact sheets regarding all applicable health code regulations, best management practices, and refrigeration and food storage requirements associated with edible food donations in order for solid waste program staff in jurisdictions to successfully implement these programs. o Postponement of implementation until assistance is provided. Lastly, the City is requesting that CalRecycle postpone the implementation of these regulations until after the assistance requested above has been provided. 	
3249	Wells, K., Sonoma County LTF on IWM	"Department" is not in the definitions but should be. Presumably it means the Department of Resource, Recycling, and Recovery (i.e., CalRecycle)	Per Statute, for the purposes of regulations promulgated by CalRecycle "department" means CalRecycle or the Department of Resources Recycling and Recovery.
3250	Wells, K., Sonoma County LTF on IWM	"Food recovery organization" Should include (D) Animal Feeding Operations. - Feeding Animals is the third tier of EPA's Food Recovery Hierarchy. Animal Feeding Operations (including farms) should be included in the definition section for food recovery organization.	SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute states that 20% of edible food must be recovered for human consumption, not for animal feeding operations. CalRecycle must adopt regulations that include requirements to achieve the specific goal identified in statute. For this reason, animal feeding operations were not added to the definition of "food recovery organization."
3251	Wells, K., Sonoma County LTF on IWM	<p>"Organic Waste" definition is not consistent between SB1383, MORE AB 1826, and AB 901.</p> <ul style="list-style-type: none"> - SB 1383 - (46) "Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. - MORE AB 1826 - (c) "Organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. - AB 901 - (39) "Organics" means material originated from living organisms and their metabolic waste products. This includes, but is not limited to, food, "agricultural material" as defined in section 17852(a)(5) of this subdivision, "agricultural by-product material" as defined in section 17852(a)(4.5) of this subdivision, green material, landscape and pruning waste, nonhazardous lumber and dimensional wood, manure, compostable paper, digestate, biosolids, and biogenic sludges; and 	Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.

Comment Number	Received From	Question/Comment	Response(s)
		<p>any product manufactured or refined from these materials, including compost, and wood chips</p> <p>- Comment: Keep the "Organic Waste" definition consistent with the previously vetted definition as stated in AB 1826 and AB 901. In addition, it is troublesome to list textiles and carpet under this definition as compost facilities do not accept the material and including these materials in the definition is confusing to the general public and industry experts. Lastly, the term "Organic Waste" implies the material is waste and not a resource. It's suggested that the term be called "Organics" or "Organic Materials" or "Organic Resource".</p> <p>- Comment: Cannabis waste is considered organic waste if it is not combined with any hazardous or toxic material. The cannabis waste generated by a cultivator is considered agricultural material. Agricultural material, as defined in Title 14 of the California Code of Regulations, Division 7, Chapter 3.1, Section 17852 Definitions, and that meets the definition of "green material" as defined in Section 17852 (a) (21), may be handled as either agricultural material or green material. We want to make sure that cannabis waste is definitely covered in this 1383 definition, since it is an emerging waste stream. I believe it is covered under green material but I just want to be sure. It may be covered under "...including but not limited to..." as well.</p> <p>Comment: We propose adding a definition for "Participation" in Section 18982. Participation is calculated as: the number of organic waste generators subscribed to the jurisdiction's organics program divided by total organic waste generators minus self-haulers.</p> <p>Participation = (# organic generators subscribed to a jurisdiction's organics program) / (total organics generators -- self haulers)</p>	
3252	Wells, K., Sonoma County LTF on IWM	<p>Section 18984 sets minimum standards to reduce contamination.</p> <p>Comment: The following shall not be collected in the green container: Carpets, non-compostable paper, and hazardous wood waste. Will a Jurisdiction be considered out of compliance with subdivision (a) if it allows carpet and textiles to be placed in the black container? It makes more sense to remove these items from the list of "Organic Waste".</p>	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>While carpets and textiles may be handled in a different manner, some jurisdictions may allow them to be placed in the gray container. Carpets and textiles are allowed in the gray container regardless of where the contents of the container are subsequently managed i.e. if these are the only organic wastes allowed in the gray container the container does not have to be transported to a high diversion organic waste processing facility.</p>
3253	Wells, K., Sonoma County LTF on IWM	Section 18984.2, Line 21	Thank you for the comment. CalRecycle revised Section 18986.1 to be consistent with other sections.

Comment Number	Received From	Question/Comment	Response(s)
		<p>Comment: Pet and human waste is not on the prohibited list, but in Article 5, Section 18986.1, line 13, it is. Text should be corrected for uniformity.</p>	
3254	Wells, K., Sonoma County LTF on IWM	<p>Section 18984.5. Container Contamination Minimization Comment: Contamination threshold is not defined. Is one battery or one plastic bag enough prompt warning? It is generally understood that our goal of <3% contamination is very ambitious. It seems this clause would indicate that even under those circumstances you keep on checking, issuing warnings and potentially initiating enforcement/penalties.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3255	Wells, K., Sonoma County LTF on IWM	<p>Section 18984.8, Line 34 Question: Given California's large non-native English-speaking population, can labels include graphics only?</p>	<p>Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.</p>
3256	Wells, K., Sonoma County LTF on IWM	<p>Section 18984.10 Comment: This section implies that multifamily residential buildings will be required to have organics composting for food waste. This is more stringent than AB 1826 where they are only required to compost landscaping waste. Mandating organics for multifamily buildings could be extremely difficult because they already struggle with overall recycling and there are often space constraints. The high turnover rate in both tenants and property managers often causes lapses or inconsistencies in recycling education, and that will no doubt be the same for organics. We recommend making SB 1383 regulations consistent with AB 1826 in exempting multifamily buildings from composting residential food waste. Comment: We support adding a new Section to Article 3 allowing a jurisdiction to choose an "Alternative" Collection and Compliance System, and a new Section to Article 13 with reporting requirements for these jurisdictions. A jurisdiction</p>	<p>The regulations require organic waste recycling services, including food waste recycling to be provided to multi-family dwellings, including apartments. Also, Article 17 was added to the regulations to allow for performance-based systems.</p>

Comment Number	Received From	Question/Comment	Response(s)
		selecting an "Alternative" would demonstrate high diversion of organics in lieu of being subject to the inspection, enforcement and reporting requirements of Articles 14, 15 and 16. This is not in conflict with the enabling legislation not to impose a minimum diversion requirement on each jurisdiction. It is not a mandate, rather it is just one of the implementation options a jurisdiction can select. This would relieve the State of burdensome oversight of high performing jurisdictions. If a jurisdiction fails to demonstrate compliance through the alternative method by 2025, then that jurisdiction would be required to implement one of the other three collection system options and become subject to all the requirements of the regulations. A similar "dual" compliance system was used by the State Water Resources Control Board in the adoption of its Trash Amendments for the Ocean Plan and the Water Quality Control Plan for Inland Surface Waters. The dual compliance offered by the State's Trash Amendments gave jurisdictions the choice of installing trash full capture devices on inlets throughout the jurisdiction or implementing a trash load reduction program that achieves the equivalent of the State's requirement.	
3257	Wells, K., Sonoma County LTF on IWM	Section 18985.1, Line 50 Comment: Add a line about sending food scraps to feed animals (e.g., pigs) as this is part of organics diversion.	CalRecycle revised Section 18985.1(a)(6) to clarify that donating food waste to feed animals should, if applicable for that jurisdiction, be included in required education.
3258	Wells, K., Sonoma County LTF on IWM	Section 18985.1, Line 53 Comment: Should be rephrased, "...a jurisdiction with an unsegregated single-container collection service program shall provide organic waste generators with the information in subdivisions ..."	A change in the regulatory text is not necessary because the information only is intended to be provided to generators that have a unsegregated single-container collection service.
3259	Wells, K., Sonoma County LTF on IWM	(f) If more than five percent of a jurisdiction's generators are defined as "Limited English-Speaking Households," or "linguistically isolated," as defined by the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a language or languages that will assure the information is understood by those generators. Question: Would that be for each of the 5% fractions of a non-English language?	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3260	Wells, K., Sonoma County LTF on IWM	Section 18990.1(b)(3) Organic Waste Recovery Standards and Policies Typographical Comment: (3) Limit the export outside of organics to a facility... the word "outside" should be deleted.	The regulatory language was changed to remove "outside." Thank you.
3261	Wells, K., Sonoma County LTF on IWM	Section 18990.2(b) Edible Food Recovery Standards and Policies. Typographical Comment: (b) A Local Education gency...the word..."gency" should be agency.	Comment noted. CalRecycle has revised section 18990.2 (b) in response to this comment to correct a typographical error.
3262	Wells, K., Sonoma County LTF on IWM	Question: How is the State structuring SB1383 to value the role of non-profit food recovery & distribution organizations, including gleaning, to provide ongoing funding to support diversion of edible food from the landfill? Consider expansion to another level of the US EPA Food Recovery Hierarchy to include animal farmers as a recognized recipient of edible food diverted to food distribution organizations that	With regard to the comment about funding, CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other

Comment Number	Received From	Question/Comment	Response(s)
		cannot all be utilized to feed people (we have examples of this occurring in Sonoma County).	funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed. With regard to the comment about the US EPA Food Recovery Hierarchy, a change to the regulatory text was not necessary. A text change was not necessary because SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute states that 20% of edible food must be recovered for human consumption, not for animal feeding operations. CalRecycle must adopt regulations that include requirements to achieve the specific goal identified in statute. For that reason, animal feeding operations were not included in SB 1383's edible food recovery regulations.
3263	Wells, K., Sonoma County LTF on IWM	Section 18991.3 Commercial Edible Food Generators Comment: The proposed regulation should clarify that food sales at large events and large venues that are NOT a part of the venue's direct concession services should be exempt from the food donation requirements. Examples include food trucks located in/at large venues and events, nonregulated food vendors, and persons serving food outside of the event or venue such as tailgating.	CalRecycle would like to clarify that food vendors operating at large events and large venues are not exempt from the edible food recovery regulations. Large event and large venue operators must make arrangements to ensure that the food vendors operating at their event or venue are recovering the maximum amount of their edible food that would otherwise be disposed. In a situation where the food vendors at a large venue or large event are not in compliance with Section 18991.3 of the regulations, the operator of the large event or large venue would be responsible for compliance. CalRecycle would also like to mention in response to this comment, that tailgaters are not subject to this regulation.
3264	Wells, K., Sonoma County LTF on IWM	Section 18991.5 includes a penalty for "A food recovery organization or service that collects or receives 6 tons or more of edible food fails to keep records as prescribed in this section." Comment: We need to create a mutually beneficial environment for support of non-profit food recovery infrastructure. Food recovery organizations are typically non-profit organizations, not commercial enterprises, serving a critical need in the community. There should not be penalties imposed on these organizations; create a model that supports that complete EPA food recovery hierarchy (including animal farmers as in previous comment – look at systems view for food recovery hierarchy).	The only direct recordkeeping requirements for food recovery services and organizations are established in Section 18991.5. This section establishes minimum recordkeeping requirements for food recovery services and organizations that elect to establish a contract or written agreement with a commercial edible food generator (as defined in the regulations). A food recovery service or organization that does not have a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b), is not subject to the recordkeeping requirements. A food recovery service or organization, may wish to consider any costs associated with recordkeeping when deciding whether or not to enter into a contract or written agreement with commercial edible food generator, thus subjecting them to the recordkeeping requirements of the regulations. Furthermore, the timeline for issuing penalties provides ample time for a food recovery organization or service to achieve compliance with the recordkeeping requirements. An entity may have up to seven months to come into compliance with a violation such as recordkeeping. CalRecycle believes this provides sufficient time for an entity acting in good faith to come into compliance with the requirements. With respect to fines issues by CalRecycle; CalRecycle's authority to take enforcement against an entity subject to a jurisdiction's enforcement authority (e.g. food recovery organization) is clarified in Section 18996.3. That section articulates that CalRecycle's enforcement against entities subject to a jurisdiction's authority should occur after a jurisdiction has failed to correct a violation within the timelines established in the regulation. Regarding the comment, "We need to create a mutually beneficial environment for support of non-profit food recovery infrastructure." CalRecycle recognizes that there is a lack of sustainable funding for food rescue infrastructure and capacity in California. To address this, Section 18991.1

Comment Number	Received From	Question/Comment	Response(s)
			<p>in the regulations requires jurisdictions to increase edible food recovery capacity if the jurisdiction does not have sufficient capacity to meet its edible food recovery needs. CalRecycle also included language in section 18991.1. stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included to encourage jurisdictions to establish a sustainable funding source to help fund their food recovery program, and to help fund food rescue organizations and services operating in the jurisdiction.</p> <p>Regarding the comment, “create a model that supports that complete EPA food recovery hierarchy (including animal farmers as in previous comment – look at systems view for food recovery hierarchy).” A change to the regulatory text was not necessary for the following reason. SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. CalRecycle must adopt regulations that include requirements to achieve the specific goal identified in statute. For this reason, animal feeding operations will not be included in the edible food recovery regulations.</p>
3265	Wells, K., Sonoma County LTF on IWM	Comment: Implementation structure is not identified clearly enough with a phased rollout for implementation of increased edible food recovery.	Comment noted, it is unclear what is meant by “implementation structure.” The comment does not request a regulatory change.
3266	Wells, K., Sonoma County LTF on IWM	Section 18998.2, line 53 Comment: Need direction from CalRecycle how to estimate edible food that’s being disposed.	CalRecycle intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. In addition, CalRecycle also intends on providing other resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.
3267	Wells, K., Sonoma County LTF on IWM	Section 18993.1(a) through (g) Comment: Per capita procurement target = 0.07 tons of organic waste per California resident per year. Translating that to Sonoma County: 500,000 residents X .07 = 35,000 tons to procure. Compost is .5 tons per cubic yard (CY). Mulches are lighter. In compost it would mean 70,000 cubic yards. We would produce only 100,000 CY. Sonoma County will sell all 100,000 CY as we have extensive local market due to being an agricultural community. Why procurement? There are no quality standards associated with procurement. Including procurement paves the way for organic recyclers to produce low quality products that the public otherwise would not want. Landscapers and agriculture depend on this material: 100% of it. How does that interface with the procurement requirement? They use a factor of .58 to get from incoming tons of material to finished product. Based on composting expertise in Sonoma County, it’s believed that number is too generous. The more mature the compost, the lower the conversion factor. Lastly, provide a sample formula or	The proposed regulatory text does not limit jurisdictions to the procurement of recovered organic waste products from “their” organics to satisfy the procurement requirements, nor do the products need to be consumed within the jurisdiction. A jurisdiction may procure from any entity provided the end products meet the Section 18982(60) definition of “recovered organic waste products”, and a jurisdiction may use the end products in a way that best fits local needs. Regarding quality standards, nothing in the draft regulations forces a jurisdiction to accept material that does not meet their quality standards. If a city chooses not to procure compost, they can procure other recovered organic waste products such as mulch or renewable gas energy products. To clarify this point, CalRecycle has added language requiring that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants. The definition of renewable gas specifies that it must be processed at a facility that is “permitted or otherwise authorized by Title 14 to recover organic waste.”

Comment Number	Received From	Question/Comment	Response(s)
		<p>calculation to demonstrate the required procurement quantities for a hypothetical jurisdiction with a population of 100,000.</p>	<p>Regarding the compost conversion factor, CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors. The 0.58 conversion factor for 1 ton of organic waste to compost is based on the Air Resources Board quantification methodology, "Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities," May 2017. A verified conversion factor is necessary because it would be overly burdensome for jurisdictions and CalRecycle to calculate and verify custom conversion factors for each of the over 400 jurisdictions in California. Note that the per capita procurement target was revised to 0.08 in subsequent drafts based on updated Disposal Reporting System data. A jurisdiction with a hypothetical population of 100,000 would use the following equation to derive their annual procurement target and quantities of recovered organic waste products.</p> <p>Procurement target = 100,000 x 0.08 = 8,000 tons organic waste If 100% renewable transportation fuel = 8,000 x 21 DGE = 168,000 DGE If 100% renewable electricity = 8,000 x 242 kWh = 1,936,000 kWh If 100% renewable heating = 8,000 x 22 therms = 176,000 therms If 100% biomass conversion electricity = 8,000 * 650 kWh = 5,200,000 kWh If 100% compost = 8,000 * 0.58 = 4,640 tons If 100% mulch = 8,000 * 1 = 8,000 tons</p> <p>The above calculations of product totals assume the jurisdiction will fulfill 100% of their procurement target with one single product, however, the procurement requirements are designed to provide flexibility and a jurisdiction could instead choose to procure a mix of products to fulfill 100% of the procurement target.</p>
3268	Wells, K., Sonoma County LTF on IWM	<p>Question: Will each individual jurisdiction need to submit the reports like they did for the AB 1826 MORE plans this year? Or can our regional agency submit a single report on behalf of all our jurisdictions?</p>	<p>A jurisdiction may designate another entity such as a regional agency or JPA to fulfill its duties under this chapter.</p> <p>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.</p>
3269	Wells, K., Sonoma County LTF on IWM	<p>Section 18994.1. Initial Jurisdiction Compliance Report</p> <p>(a) Each jurisdiction shall report to the Department on its implementation and compliance with the requirements of this chapter. Each jurisdiction shall report to the Department by February 1, 2022 the following information:</p> <p>(1) A copy of ordinances adopted pursuant to this chapter. (2) The date that the jurisdiction will ensure that all containers used by generators subject to the jurisdiction's authority will comply with the container color requirements as specified in Section 18984.7. (3) The reporting items identified in Section 18994.2.</p> <p>Comment: Please clarify when the information referenced in Item (3) above is due. This Section (18994.1) states it is due February 1, 2022 and the following Section</p>	<p>The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the</p>

Comment Number	Received From	Question/Comment	Response(s)
		(18994.2) states a deadline of August 1, 2022 for the initial reporting period of January 1, 2022-June 30, 2022.	prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3270	Wells, K., Sonoma County LTF on IWM	<p>Section 18994.2. Jurisdiction Annual Reporting</p> <p>(a) Commencing August 1, 2022, and annually thereafter, a jurisdiction shall report the information required by this section. The report submitted in 2022 shall cover the period of January 1, 2022–June 30, 2022. Each subsequent report shall cover the entire previous calendar year.</p> <p>Comment: Per the language above, the first report shall be due just one month after the initial reporting period ends. It seems unrealistic to expect a jurisdiction to compile all the required report data called for in this section in such a short timeframe and even more so for regional agencies that plan to submit the reports on behalf of multiple jurisdictions. In subsequent years (2023 on onward) the jurisdiction will have seven months to compile the data required for the annual report, which is consistent with past practice for AB 939 Annual Reporting requirements. Please consider eliminating the first six-month reporting period or extending the due date to 12/31/2022.</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>
3271	Wells, K., Sonoma County LTF on IWM	<p>Section 18995.1 Jurisdiction Inspection and Enforcement Requirements</p> <p>Question: Is “sufficient” defined by the jurisdiction?</p>	<p>A change to the regulatory text is not necessary. The language in this subsection was worded in such a way to allow the requirement for inspections to be tailored to the unique circumstances of each jurisdiction. This allows the jurisdiction the flexibility to conduct the number of inspections needed to have an overall picture of the compliance of generators under their authority and to ensure their own compliance with the Chapter. Jurisdictions shall have an inspection plan on how they will be conducting their inspections, such as but not limited to, inspecting entities that may be more likely to be out of compliance or focusing on large generators.</p>
3272	Wells, K., Sonoma County LTF on IWM	<p>Section 18995.2 Implementation Record and Recordkeeping Requirements</p> <p>Question: Is the Inspection and Enforcement Program expected to be a distinct written policy? Or just a combination of all the requirements set forth in this section?</p>	<p>A change to the regulatory text is not necessary. Yes, per Section 18995.2(f)(2), the inspection and enforcement program shall be reflected in a written record.</p>
3273	Wells, K., Sonoma County LTF on IWM	<p>Section 18995.2(c)</p> <p>Comment: Jurisdiction must provide access to the implementation records within one business day is unreasonable. The California Public Records Act indicates an agency must provide the records within a reasonable period of time and allows ten-day period for response. Request the text change from one business day to ten days</p>	<p>CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.</p>
3274	Wells, K., Sonoma County LTF on IWM	<p>Since many jurisdictions do not have mandated garbage service, are jurisdictions expected to enact a mandatory service law in order to enforce SB 1383 regulations?</p>	<p>Comment noted. This chapter does include requirements for jurisdictions to adopt and implement organic waste collection services. Jurisdictions shall adopt enforceable ordinances(s), or similarly enforceable mechanisms that are consistent with the requirements of this Chapter, to mandate that organic waste generators, haulers and other entities subject to the requirements of the Chapter and subject to the authority of the jurisdiction comply with the requirements of the Chapter. Section 18984.11 allow a jurisdiction to grant an exemption to a generator of organic waste if it meets certain criteria. Such waivers include: de minimis, physical space and collection frequency. The Department may also grant waivers for areas of low population, rural areas, and high elevation.</p>

Comment Number	Received From	Question/Comment	Response(s)
3275	Wells, K., Sonoma County LTF on IWM	Section 18997.4. Organic Waste Recovery Noncompliance Inventory Question: Jurisdictions can receive severe \$\$\$ penalties for non-compliance but state agencies, state facilities or local education agencies only get placed on a "Non-Compliance Inventory." Where is the equity?	A change to the regulatory text is not necessary. Under 1383, state agencies are treated as generators rather than implementation authorities and SB 1383 did not authorize the Department to issue penalties to state agencies. The Department will not be adding enforcement requirements on state agencies. Section 18996.6 states that the Department will oversee the compliance of state agencies in respect to SB 1383. Currently, state agencies are required to meet waste diversion goals like those required for cities, counties and regional agencies under AB75. State agencies and large state facilities must adopt integrated waste management plans, implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.
3276	Wells, K., Sonoma County LTF on IWM	Comment: Should be rephrased, "Upon presentation of proper credentials and a 24-hour written notice..."	A change to the regulatory text is not necessary. A text change is not necessary for the following reason(s): As outlined in Section 18993.1, subdivision (b), the procurement target for recovered organic waste products is calculated by multiplying the per capita procurement target by the jurisdiction population, not number of employees. Regarding "different avenues" for organic waste, CalRecycle has revised section 18993.1 to expand the list of recovered organic waste products to provide jurisdictions more flexibility.
3277	Wells, K., Sonoma County LTF on IWM	Section 17402. Definitions. (a) For the purposes of these articles: (0.5) "Consolidation Sites" means facilities or operations that receive solid waste for the purpose of storing the waste prior to transfer directly from one container to another or from one vehicle to another for transport and which do not conduct processing activities. Consolidation activities include, but are not limited to, limited volume transfer operations, sealed container transfer operations, and direct transfer facilities. Question: Does the definition of "Consolidation Sites" include Large Volume Transfer/Processing Facilities? Comment: If so, please consider adding to the definition.	A change to the regulatory text is not necessary. A facility or operation whose sole purpose is to receive solid waste for storing only and does not conduct any processing is defined as a consolidation site. An operation or facility that meets this definition would be considered a consolidation site, regardless of the amount of solid waste received.
3278	Wells, K., Sonoma County LTF on IWM	Section 17409.5.2 (Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream) - This section contains several requirements intended to quantify, on at least a daily basis, the amounts of organic waste contained in various process and residual streams. The quantification relies on detailed characterization sorts of one-cubic yard samples. Comment: We understand the goal of gaining better understanding of how much organic waste is in various process and residual streams. Because waste composition does not change rapidly over time and because characterizations are expensive to perform and disruptive to facility operations, it is not necessary to perform a detailed characterize of one-cubic yard sample daily. Additionally, the frequency of sampling as proposed requires excessive mobilization for data that can be collected with less frequency. A daily sampling requirement is time-consuming, cost prohibitive, labor intensive and requires valuable facility space to implement. We strongly recommend that sampling occur one business week a quarter, thereby capturing daily and seasonal fluctuations at a reduced cost to facilities and, ultimately, rate payers.	CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3. The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. The sampling frequency 10 consecutive days was based on that 2 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

Comment Number	Received From	Question/Comment	Response(s)
		<p>In contrast, Section 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, 17409.5.9 and 17409.5.11 require characterization daily (or more often) of samples one-cubic yard in size. Both the frequency and the sample size are far greater than what is needed to provide insight into organics levels and residue levels in the various material streams. Quarterly sampling is sufficient to capture seasonality. If results are consistent from quarter to quarter and/or year to year, annual sampling frequency would be sufficient. We ask that CalRecycle rework this section with guidance from an expert who specializes in statistical science as it relates to learning useful information from sampling and analysis. We would expect this would lead to much smaller sample sizes and sampling only when needed to adjust for seasonality and trends, not the current, arbitrary, daily sampling requirement.</p>	<p>number of samples required to achieve a pre-determined precision of specific material type. Using data from the “2014 Disposal-Facility- Based Characterization of Solid Waste in California”, 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% 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%, 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 2 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 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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” collections streams are reflected in the sampling. Based on the expert 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p>
3279	Wells, K., Sonoma County LTF on IWM	<p>This article contains sections describing the methodology by which a transfer and processing facility will determine if they are meeting the organic waste recovery efficiency expectations of a “high diversion organic waste processing facility” and/or the 10% incompatible material limit in recovered organic waste.</p> <p>Comment: We have several concerns with the described methodology and offer the following recommendations. Please note that these recommendations also apply to Section 17869 (Article 8. Composting Operation and Facility Records) and Section 17896.44.1 (Article 3. Operation Standards for In-Vessel Digestion Operations and Facilities) as it pertains to organic waste residual calculations.</p> <p>There are too many variables and unknowns regarding the proposed organic waste recovery efficiency methodology to include in the regulatory text. The regulations should reference a guidance document that will include a CalRecycle approved methodology that can be more easily altered and updated as we implement these regulations. Flexibility is necessary both for CalRecycle and the reporting entities to ensure we create a workable methodology based on implementation realities. The guidance document could potentially include: a statistically relevant sampling</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard.</p> <p>The sampling frequency 10 consecutive days was based on that 2 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.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>requirement based on the volume of material processed, a non-subjective weight-based sampling approach, inclusion of a confidence interval for meeting the efficiency expectations, a limit on particle size (e.g. 4 inches) when measuring organic waste in residuals, documentation for verification, and – similar to other programs like ground water sampling – a reduced sampling frequency based on meeting the efficiency expectations. This guidance document should be created separately from the current rulemaking with substantial facility stakeholder input that can be beta-tested at facilities prior to adoption. This guidance document would consider the differences in measuring organic waste recovered vs. organic waste in residuals, for both mixed waste collection and source separated collection. Finally, our interpretation is that sampling expectations are for mixed waste collection and source-separated organic collection streams only. This means that material collected in the blue bin of a three-container organic waste collection service is not subject to these requirements, whether the collection be single-stream, dual-stream, tri-stream or otherwise.</p>	<p>Using data from the “2014 Disposal-Facility- Based Characterization of Solid Waste in California”, 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% 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%, 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 2 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 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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” collections streams are reflected in the sampling. Based on the expert 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p> <p>Section 17402 (a) (11.5) allows organic waste to be collected in the blue containers. A blue container that collects only dry organic waste, such as paper, would be treated as source separated organic collection stream and not be subject to the recovery efficiency requirements but would be subject to the incompatible materials limit requirements.</p>
3280	Wells, K., Sonoma County LTF on IWM	<p>§20750.1. CalRecycle– Organic Waste Handling. (a) For new or expanding solid waste landfills: (1) The operator shall implement organic waste recovery activities, as approved by the EA, organic waste recovery activities shall be confined to specified, clearly identifiable areas of the site and shall be arranged to minimize health and safety hazard, vector harborage, or other hazard or nuisance, and be limited to a volume and storage time as approved by the EA... (c) For the purposes of the section, “expanding” means a solid waste landfill proposing to make a significant change to the design or operation as determined by the EA pursuant to 27 CCR Section 21665.</p>	<p>A change to the regulatory text is not necessary. 27 CCR Section 20750.1(c) defines the term “expanding” which means a solid waste landfill proposing to make a significant change to the design or operation pursuant to 27 CCR 21665.</p> <p>CalRecycle staff will develop tools to assist in the implementation of the regulations.</p> <p>CalRecycle staff will develop tools to assist in the implementation of the regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>(1) Changing the hours of operation of a landfill is not considered an expansion pursuant to 14 CCR Section 20750.1(c). Comment: The determination of “Expanding” outlined seems somewhat subjective. Please consider including additional clarifying examples of what is not considered an expansion similar to the change in hours example.</p>	
3281	Wells, K., Sonoma County LTF on IWM	<p>Title 27 solid waste requirements. The State currently proposes to implement long term intermediate cover requirements from the current 12 inches of soil/earthen material to a mandatory 36 inches where no additional solid waste will be deposited within 30 months to control methane emissions.</p> <p>While there is wide spread support from local government and industry to minimize greenhouse gas emissions, it is respectfully submitted that the current proposal is likely not to have a meaningful impact on emissions as currently drafted. There are reasons to conclude that the proposed changes would create additional impacts resulting in an increased carbon footprint at landfill facilities, decreased site life, and the unnecessary increase of costs to the public with no significant net benefit to the environment noting the following:</p> <p>1) Technical Viability of Proposal</p> <ul style="list-style-type: none"> • Landfill gas migration is influenced by the porosity, permeability and transmissivity of the media through which it travels. While increasing long term cover thickness may increase exposure to bacteria in soil to mitigate CH4, it will not decrease the relative properties of the media as to landfill gas and its transmission through the interim cover material. Whether the cover is 12 inches or 36 inches, and presuming uniform media, the transmission rate of landfill gas consisting of Methane, CO2 and other discreet analytes associated with global warming will be the same. • Depending on the cover material used and based on the locality of the landfill facility performance will vary greatly. For example 36” of soil with high sand and gravel content and minimal clay located in arid regions will perform significantly worse than 12 inches of interim cover with higher clay and silt content in a non-arid coastal landfill in the northern part of the state. Proposed regulations take no position on the viability or placement of the material used to accomplish its intended purpose. <p>2) Carbon Footprint Impact</p> <ul style="list-style-type: none"> • The placement of additional soil will require additional transport, placement and compaction of material on the landfill surface, all of which will generate additional CO2 emissions. • For landfills that have a soil deficit, carbon impacts will be increased as soil will need to be imported from offsite to facilities. <p>3) Economic Impact</p> <ul style="list-style-type: none"> • Site Life will likely be Decreased dependent upon how much of the intermediate cover can be re-used once the cell is activated again. • Joint Technical Documents will need to be updated to accommodate financial models and site life estimates 	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> • For landfills with soil deficits, the cost of importation will be an added expense • Costs to implement the operational and engineering changes will need to be passed on to consumers. <p>Given the uncertainty of the costs to implement and the overall environmental benefits of the current proposal, we would encourage CalRecycle in conjunction with local government and industry to pursue a performance based solution to intermediate cover and landfill gas collection, in effect taking a holistic approach to the challenging issue of greenhouse gas emissions. In this regard, a working group could establish performance standards relative to cover performance that gives operators the flexibility to address issues relative to site specific conditions. Such standards could include minimum compaction requirements using 12” of cover material with performance based on the resultant permeability of the overlying material decreasing landfill gas migration to the surface. A list of other accepted statutory methods can also be included such as temporary membranes that would achieve the same performance criteria.</p> <p>While we recognize that CalRecycle has already included a provision for operators to propose equivalent alternatives to the statutory 36” cover, without an associated performance criterion of the statutory requirement, this option becomes meaningless, as there is no standard for comparison. By having pre- specified performance criteria and acceptable alternative methods, such as synthetics to decrease emissions, duplicative effort among all stakeholders (regulatory and industry) can be minimized.</p> <p>It is further recommended that performance criteria be tiered based on the in place waste present at regulated facilities, noting the larger benefit of funds and resources should be utilized where the potential to sequester greenhouse gasses such as methane is greatest.</p>	
3282	Wells, K., Sonoma County LTF on IWM	<p>§21695. CalRecycle—Organic Disposal Reduction Status Impact Report</p> <p>Comment: This section requires a Status Impact Report (SIR) be submitted by landfill operators no later than 180 days from the effective date of the regulation. Since this timing may or may not occur coincidentally with other permit submission requirements such as the 5-Year Review please consider revising the language to: “(d) The SIR shall be submitted to CalRecycle no later than 180 days from the effective date of this regulation or in conjunction with the facility’s next regularly scheduled 5-Year Review, whichever is later.”</p>	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations.</p> <p>The SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order properly implement any changes or modifications to the landfill in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p>

Comment Number	Received From	Question/Comment	Response(s)
			In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills. If there will be no changes to a particular item, then a statement to that effect would be adequate.
3283	Wells, K., Sonoma County LTF on IWM	<p>GENERAL COMMENTS</p> <ul style="list-style-type: none"> • Comment: When citing regulatory requirements referenced from Public Resources Code (or other regulations outside this text) please consider providing either a link to the cited section or, at a minimum, a descriptive title of that reference to provide relevance to the citation. (Other than “Authority cited” references) 	Comment noted. The comment is not directed at the regulatory text itself or the APA process but instead requests an internet link when CalRecycle references certain statutory section in posted documents.
3171	White, C., Manett, Phelps & Phillips	<p>Use of the word “disposal” and phrase “landfill disposal” in the proposed regulations.</p> <p>Nowon prepared a word count on the proposed regulations and found that the word “disposal” is used 132 times. However the phrase “landfill disposal” is used only 23 times (i.e., only 17.4 % of the times disposal is used). We believe that these two terms should mean the same thing within the context of Chapter 12. Nowon would not want the word “disposal” within Chapter 12 to mean the broader reference to disposal within the PRC – which includes not only landfill disposal but also transformation.</p> <p>There is one meaning for “disposal” within the framework of the PRC (e.g., landfills and transformation) and another meaning for “landfill disposal” within the framework of the H&SC authorized STCP regulations (e.g., only landfill disposal). Nowon’s concern is that it should be clear that these two terms should have the same meaning within the context of Article 2. Nowon wishes to ensure that, if approved as a Verified Technology pursuant to Article 2, that it is clear that it results in the reduction in landfill disposal – not necessary all disposal as defined in the public resources code. This is because the Nowon technology may produce a fuel product that is still considered as “disposal” within the current meaning of the public resources code (e.g., EMSW) – but not landfill disposal as this term is used within these proposed regulations. We believe that there are at least two possible ways to address this lack of clarity in the proposed regulations:</p> <ol style="list-style-type: none"> 1. Change the word “disposal” to “landfill disposal” all 132 times, or 2. Add a definition of “disposal” to mean the same as “landfill disposal” within Chapter 12. 	CalRecycle has revised the sections in response to comments. The term “disposal” was revised to “landfill disposal” where appropriate. This change was necessary to be consistent with the intent of SB 1383 mandate to reduce the organic waste disposed in landfills.
3172	White, C., Manett, Phelps & Phillips	<p>1. Information to be submitted to the Department by the Applicant:</p> <p>a. (B) Detailed explanation of each of the processes or technologies proposed by the applicant for use to reduce landfill disposal.</p> <p>In the case of a process that produces a low carbon industrial furnace fuel from residual solid waste, the production of the fuel is generally separate and distinct from the use of the fuel to produce energy in the industrial furnace. In most cases the person operating the fuel production process (e.g., at a solid waste processing facility or MRF) is separate and distinct from the person utilizing the fuel. Which of</p>	A change to the proposed regulation to specify who the applicant for a determination of reduction in landfill disposal for a technology or process must be is not necessary because it would unnecessarily limit who could apply. The purpose of Section 18983.2 of the regulation is to approve technologies and processes that count as a reduction in landfill disposal, not to approve applicants themselves. As long as the applicant has all the information necessary to meet the requirements of Section 18983.2(a), and submits that as part of its application CalRecycle staff, in consultation with CARB staff, will review the application.

Comment Number	Received From	Question/Comment	Response(s)
		<p>these parties is the applicant responsible for providing information about both the fuel production process as well as the fuel utilization process in the industrial furnace? Further, while the owner/operator of the fuel production process may remain unchanged, the use of the fuel may change from time to time for a variety of factors. How is the owner/operator of the fuel production process able to represent all potential future users of the fuel? Each industrial furnace operator may have different specification requirements for the fuel provided to each different furnace. We recommend that the principle applicant under these regulations be the owner/operator of the fuel production unit (Nowon Technology Owner and Operator—O/O). The Nowon O/O would provide specific information about the operation of the fuel production unit as well as known information pertaining to the intended end use of the fuel in cooperation with a proposed known end user or users. Additional generic information about future alternative end users could also be provided. If new end users are added in the future within the constraints of the generic information in accordance with these regulations, no further action would be required – other than to ensure that the end user has separately complied with all appropriate permitting requires (e.g., becoming permitted as an EMSW facility in accordance with CalRecycle regulations).</p>	
3173	White, C., Manett, Phelps & Phillips	<p>b. (C) For each process or technology noted in Section 18983.2(a)(1)(B), the mass in short tons of organic waste, differentiated by type, that will be processed each year. For mixed organic waste, the mass in short tons of the various types of organic waste shall be determined based on an annual waste characterization study. The term “differentiated by type” is not clear. The Waste Classification Material Type listing on CalRecycle’s website contains definitions for material types used in recent CalRecycle waste characterization studies. Waste and diversion streams are divided into 68 distinct material types, grouped into 10 different categories. In general, categories contain types made of the same base material like paper, glass, or organics. However, some organic-based materials are in other categories such as wood waste (Inerts and Other category), and compostable paper (Paper category). We recommend that as much specificity be provided by the applicant based on historical information regarding the waste streams intended for use (e.g. from a particular MRF). However, breaking waste into 93 category types may not be practical. This is particularly true as waste material types can change from time to time based on changes in consumption patterns. On the other hand, broad material categories may not provide sufficient information about the nature of the waste being processed into industrial fuel. The ISOR states that, “This section is necessary because information regarding the amount of organic waste is needed by type to allow ARB and CalRecycle to most accurately estimate the potential greenhouse gas emission reductions from the proposed recovery activity.” Based on this, the Nowon O/O would provide sufficient description of the material types as necessary to “accurately estimate” the potential GHG emission reductions from the proposed</p>	<p>CalRecycle has revised section 18983.2(a)(1)(C) in response to this comment. The changes specify the eleven categories of organic waste type into which applicants differentiate organic waste that will be processed by the proposed process or technology noted in the application. The change is necessary to narrow the number of categories of organics and be specific as to which organics types must be reported.</p> <p>These categories of organic waste are modified from those included in CalRecycle’s Standard List of Material Categories and Types under the heading “Other Organics” as well as some categories listed under the regulation’s definition of “Organic Waste.” CalRecycle chose these categories because they represent major categories of organic waste that are most likely to have different sources and greenhouse gas emission factors. Further categories are not necessary because they would offer no additional information about the estimated greenhouse gas emissions and emission reductions of the technology or process.</p> <p>The commenters also suggest standardizing the characterization of mixed organic waste using CalRecycle’s Uniform Waste Disposal Characterization Method¹ as this standard. However, CalRecycle determined that it was not necessary to require this level of detail and removed the sentence to which the commenters referred.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>recovery activity. This could be more than 10 broad categories, but less than 93 specific material types.</p> <p>The second sentence above discusses mixed organic waste and requires that a waste characterization study be performed annually on the material being processed to produce, in our case, industrial fuel. We support this requirement and suggest that the waste characterization study of the mixed waste to be processed into fuel be conducted in a manner “consistent with” CalRecycle’s Waste Characterization Study as provided at: https://www2.calrecycle.ca.gov/WasteCharacterization/General/UniformMethod</p>	
3174	White, C., Manett, Phelps & Phillips	<p>c. (D) For any residual material produced from the proposed process or technology, a description of each end use or disposal location to which the residual material will be sent. For each end use or disposal location, the applicant must submit the expected mass in short tons and characteristics of the residual material.</p> <p>The term “end use or disposal location” is not clear. The whole purpose of these regulations is to support diversion of solid waste from landfill disposal. If a Nowon O/O produces a fuel from residual solid waste, the fuel is no longer subject to landfill disposal. Rather, it will be sent to an industrial furnace for energy recovery. Further, it may not be known at the time of application pursuant to these SB 1383 regulations all of the specific industrial furnaces or other uses to which the Nowon product may be delivered. We hope that a general description of the “end use” and generic performance attributes will be sufficient. Of course, any known specific end uses can be provided at the time of application. This would be consistent with our comments on paragraph (B) above. As long as any new end use after the original application is consistent with the generic end use and performance characteristics that would be sufficient to allow that new end use under the original application. Any changes or new uses that are outside the original end use would require an amended application.</p> <p>Further, what is the meaning of the term “residual material”? Does this have the same meaning as “residual organic material” as defined in these regulations or is it broader than just organic residual material? Does this mean any residual material produced by the process including product, by-products and waste. Or, does the term refer solely to any waste residuals that require disposal after the process is complete? Further clarification of the meaning of the term “residual” as used here would be helpful.</p>	<p>CalRecycle has revised section 18983.2(a)(1)(D) in response to these comments. The changes remove the word “residual” from this subsection to clarify that the greenhouse gas emissions and emissions reduction potentials calculated pursuant to section 18983.2(A)(1)(E) must include emissions and emissions reductions of all materials produced from the process, whether they be sent to a beneficial use or disposed of. The change is necessary to clarify the scope of emissions and emissions reductions calculations intended in section 18983.2(a)(1)(E).</p> <p>The commenters note that the purpose of reporting on “end use or disposal location” is unclear because “[t]he whole purpose of these regulations is to support diversion of solid waste from landfill disposal.” While staff agree that the purpose of these regulations is to support diversion of solid waste, it is possible and likely that processes and technologies that are designed to reduce organic waste disposal in landfills will result in additional materials that have an end use or require disposal following the proposed process or technology. The greenhouse gas emissions of those materials must be considered to fully evaluate the emissions reduction potential of the process or technology.</p> <p>CalRecycle understands that applicants for determinations of technologies that constitute a reduction in landfill disposal will not know every specific end use and disposal fate of materials for each process or technology, but CalRecycle expects applicants to sufficiently describe expected end uses and disposals such that staff can evaluate the emissions and emissions reduction of the process or technology. The comment is correct that, because the processes and technologies will be evaluated from a lifecycle emission basis, different end uses may lead to different determinations for approval.</p>
3175	White, C., Manett, Phelps & Phillips	<p>d. (E) For each of the processes or technologies described pursuant to Section 18983.2(a)(1)(B), each calculation, assumption, and emission factor used by the applicant to calculate the permanent greenhouse gas emissions reduction potential of the proposed operation. All calculations must be clearly laid out such that the Department and/or the Executive Officer of the California Air Resources Board (CARB) are able to follow and understand the calculation of greenhouse gas emissions reduction potential. Calculations must include quantification of the</p>	<p>CalRecycle added definitions for “greenhouse gas” and “fluorinated greenhouse gas” to clarify what greenhouse gases are considered under the regulation and added a definition for “greenhouse gas emission reduction” to clarify how an emission reduction is calculated. The “greenhouse gas,” “greenhouse gas emission reduction,” and “fluorinated greenhouse gas” definitions are the same as those definitions used in CARB’s Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for “lifecycle greenhouse gas emission” was modified from a similar definition in CARB’s Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify what information is required for an application for a</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>greenhouse gas emissions produced from the process or technology itself, including those emissions from any residual material.</p> <p>We agree and support the provisions of this paragraph. However, we do have questions about the following phrase in the last sentence: “greenhouse gas emissions produced from the process or technology itself, including those emissions from any residual material.” It would be Nowon’s intent to provide a description of any and all GHG emissions and reductions from any waste material that is introduced into the Nowon process. For example, a complete quantification of all GHG emissions and reductions will be provided for all materials handled by the Nowon process. This will include the Nowon process itself as well as the use of the Nowon fuel to reduce GHG emissions at industrial furnaces as compared to other fuels used by the industrial furnaces. The largely biogenic material will substantially reduce GHG emissions at both landfills from which the organic waste is diverted as well as at the industrial furnaces that have previously used more carbon intensive fossil fuels.</p>	<p>determination of technologies that constitute a reduction in landfill disposal, as well as what greenhouse gas emission and emissions reductions will be considered by CalRecycle in making the determination.</p>
3176	White, C., Manett, Phelps & Phillips	<p>(F) For each emission factor used pursuant to Section 18983.2(a)(1)(E), documentation demonstrating that the emission factor has been peer reviewed or subjected to other scientifically rigorous review methods.</p> <p>Nowon would appreciate receiving confirmation that these regulations not only require accounting of GHG emissions, but also GHG emission reductions. For example, diversion of organics from a landfill will have a landfill methane reduction similar to composting, due to the reduction of methane emissions associated with landfilling. In addition, if the biomass fuel is used to displace the use of higher carbon intensity fossil derived fuels (e.g., coal, tires, etc.) would be allowed to count the emission reduction associated with converting from high emissions fossil derived fuels to lower carbon biomass fuels. The total overall GHG emission reduction will be the combination of both the landfill methane reductions plus the reduction in displaced fossil carbon fuel emissions. In addition, please clarify which other emissions/reductions associated with the overall process would have to be counted as well.</p> <p>Does this include transportation of the fuel from the location of Nowon Technology to the Industrial furnace? Are similar requirements included in the determination of the 0.30 MTCO₂e/short ton specified elsewhere in this section (e.g., transport of materials to and from the compost from compost site and to the end use site)?</p>	<p>CalRecycle added definitions for “greenhouse gas” and “fluorinated greenhouse gas” to clarify what greenhouse gases are considered under the regulation and added a definition for “greenhouse gas emission reduction” to clarify how an emission reduction is calculated. The “greenhouse gas,” “greenhouse gas emission reduction,” and “fluorinated greenhouse gas” definitions are the same as those definitions used in CARB’s Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for “lifecycle greenhouse gas emission” was modified from a similar definition in CARB’s Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify 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 emission and emissions reductions will be considered by CalRecycle in making the determination.</p>
3177	White, C., Manett, Phelps & Phillips	<p>e.(2)The Department shall consult with CARB’s Executive Officer to evaluate if the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation, and whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal.</p> <p>A clear interpretation of the following phrase as it relates to the diversion of organic waste from landfill disposal to be used as a source of low carbon fuels is requested, “. . . proposed operation results in a permanent reduction in greenhouse gas</p>	<p>CalRecycle added definitions for “greenhouse gas” and “fluorinated greenhouse gas” to clarify what greenhouse gases are considered under the regulation and added a definition for “greenhouse gas emission reduction” to clarify how an emission reduction is calculated. The “greenhouse gas,” “greenhouse gas emission reduction,” and “fluorinated greenhouse gas” definitions are the same as those definitions used in CARB’s Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for “lifecycle greenhouse gas emission” was modified from a similar definition in CARB’s Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify what information is required for an application for a</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>emissions, and therefore counts as a reduction in landfill disposal. “ Nowon’s interpretation is that overall GHG reductions (e.g., both anthropogenic methane, anthropogenic CO2, and other GHGs) can be counted und this provision. The would include both: 1) the reduction in methane emissions associated with the diversion of organic solid waste from landfills, and 2) reduction in anthropogenic CO2 due to use of the Nowon fuel to reduce fossil CO2 emissions. Although use of the Nowon fuel to displace use of higher carbon fossil fuel is not directly associated with landfill diversion, it does result in a permanent reduction in GHG emissions in accordance with the above paragraph. Nowon would appreciate confirmation that all GHG reductions associated with a particular operation are considered to “count as a reduction in landfill disposal”. This would include GHG emission directly related to the landfill diversion the waste, but also other beneficial GHG reductions associated with the use of the diverted waste. It is our view that the overall reduction in GHG emissions associated with a particular operation should be counted as diversion from landfill disposal – both the avoided landfill emission as well as emission reduction associated with the use of the products of the operation. It is our view that this is similar to the benefits of composting that consider both the diversion of organics from a landfill resulting in reduced methane emissions as well as reduction in GHG emissions associated with fertilizer production. It is our understanding that this is the basis for the 0.30 MTCO2e/short ton organic waste that is used as a basis of comparison for alternative verified technologies pursuant to these regulations. We would appreciate confirmation of this understanding in the response to comments and the final Statement of Reasons.</p>	<p>determination of technologies that constitute a reduction in landfill disposal, as well as what greenhouse gas emission and emissions reductions will be considered by CalRecycle in making the determination.</p>
3178	White, C., Manett, Phelps & Phillips	<p>(3) To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department and/or CARB’s Executive Office shall compare the metric tons carbon dioxide equivalent (MTCO2e) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste (0.30 MTCO2e/short ton organic waste).The Department shall only deem a proposed operation to constitute a reduction in landfill disposal if the process or technology has permanent greenhouse gas emissions reductions equal to or greater than the 0.30 MTCO2e/short ton of mixed organic waste. The numeric factor in the above paragraph is expressed differently 2 times: 0.30 short ton organic waste 0.30 MTCO2e/short ton of mixed organic waste Can CalRecycle please clarify how these two different expressions are used and are related to each other with the inclusion of the term “mixed waste” in the second, but not in the first? It is our understanding that the 0.30 MTCO2e/short ton organic waste is based on both the reduction in landfill methane emissions due to diversion of the organice waste as well as the avoided GHG emissions due to the reduced use of manufactured fertilizers to sustain the growth of plants where the compost is</p>	<p>CalRecycle added definitions for “greenhouse gas” and “fluorinated greenhouse gas” to clarify what greenhouse gases are considered under the regulation and added a definition for “greenhouse gas emission reduction” to clarify how an emission reduction is calculated. The “greenhouse gas,” “greenhouse gas emission reduction,” and “fluorinated greenhouse gas” definitions are the same as those definitions used in CARB’s Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for “lifecycle greenhouse gas emission” was modified from a similar definition in CARB’s Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify 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 emission and emissions reductions will be considered by CalRecycle in making the determination. CalRecycle has revised section 18983.2(a)(3) in response to this comment. The change removes the word “mixed” from the phrase “mixed organic waste.” This change is necessary to clarify that the assessment is being performed relative to the greenhouse gas emissions per short ton organic waste being processed.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>applied. For purposes of clarity, it would be helpful for the response to comments and the Final SOR to clearly and explicitly show how the 0.30 MTCO₂e/short ton organic waste factor was derived – showing all the terms that were used to calculate this factor as well as their sources. Unfortunately, such more detailed computations appear to be missing from the ISOR.</p> <p>In addition, the phrase “permanent greenhouse gas emissions reductions equal to or greater than the 0.30 MTCO₂e/short ton of mixed organic waste” is assumed to include all GHG reductions associated with a particular operation to produce an alternative product from waste diverted from landfill disposal – in a manner consistent on how that factor was derived for the use of organic wastes to produce and use a compost product. These GHG reduction include both those reduction directly associated with reduce landfill methane emissions as well as GHG reductions associated with the beneficial use of a product produced by the process or technology.IDENTICAL 3401</p>	
3022	Williams, J., City of Needles	<p>Infrastructure Capacity and Funding: The proposed regulation does not provide disadvantaged communities enough time to implement a cost effective solution to meet compliance. Needles' median household income is 49% of statewide median, meaning that our residents must bear disproportionately high cost increases. The City lacks sufficient funds to implement new organic waste diversion program and the financial impact on the community of Needles is unbearable. The City requests that you consider the financial impact on disadvantaged isolated rural communities such as Needles with no organic waste infrastructure and no funding.</p>	<p>The regulations provide waivers and exemptions from the regulatory requirements for low-population, rural and high elevation jurisdictions. Needles may qualify for some or any of these.</p>
3023	Williams, J., City of Needles	<p>Procurement: The proposed procurement requirements require Needles to purchase compost or renewable natural gas as well as minimum recycled content and recyclability standards for paper purchases. The City of Needles will have substantial costs added to the already struggling general fund. In addition, the per capita procurement target is a blanket per capita and the City of Needles could not procure enough tons per day to meet the regulations. The City of Needles has completed analysis to determine the amount of generation and the limited commercial accounts generate approximately 100 tons a year of compostable organic material.</p>	<p>A change to the regulatory text is not necessary. The draft regulatory proposal is designed to provide flexibility to jurisdictions in procuring the recovered organic waste product(s) that best fit local needs. Many jurisdictions already procure these products, or their equivalent forms, and this requirement should not result in “substantial additional costs”.</p> <p>The proposed regulatory text does not limit jurisdictions to the procurement of recovered organic waste products from “their” generated organics to satisfy the procurement requirements, nor do the products need to be consumed within the jurisdiction. A jurisdiction may procure from any entity provided the end products meet the Section 18982(60) definition of “recovered organic waste products”, and a jurisdiction may use the end products in a way that best fits local needs.</p>
3024	Williams, J., City of Needles	<p>Rural County Exemptions: The draft regulations allow exemptions for cities less than 5,000 population with less than 5,000 tons of waste disposed in 2014. The City of Needles meets that disposal limit, but not population. Since disposal reduction is key to SB 1383, the population limit is unnecessary and arbitrary. The City asks that you consider exemptions recognizing nonurban areas' distance to markets and difficulty accessing processing facilities and markets; small population: cost impacts on local residents and businesses; volume of organic material in the city; seasonal impacts on generation; and feasibility of local alternative processing.</p> <p>The City generates approximately 70 yards of organic waste a week, under Mandatory Organics Recycle (AB 1826) only 5 commercial businesses are subject to</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>the current law. The City's Hauler has provided cost estimates to haul organic material to a third-party located in Arizona. The annual cost of such program is \$78,000/year, a financial impact of \$15,600 per business per year. This cost is a financial burden to the already limited number of businesses in Needles. Under SB 1383 additional costs are added to a program which is not implemented to restrictors.</p> <p>The City asks that CalRecycle considers disadvantage community is isolated locations such as Needles and includes and exemption under SB 1383 and review the impacts of AB 1926.</p>	<p>mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
4012	Wyse, J, Pacific Waste Services	How are organic textiles and carpets going to be identified in comparison to the synthetic textile and carpet materials? Is it practical and proven that these materials will compost or have an alternative recycling use avoiding landfill disposal?	It would initially be up to the generator to identify, based on identification on the materials. It is CalRecycle's understanding that natural fibers will compost.
4013	Wyse, J, Pacific Waste Services	Organic Waste Definition includes: Lumber and wood which are broad terms and without definition or clarification could include pressure treated wood, painted lumber/wood, etc. along with inert materials. Furthermore, such lumber, wood were listed as "Inert" material in the 2014 Waste Characterization Studies and in the CalRecycle "Residential Waste Stream by Material Type"- Clean Dimensional Lumber, Clean Engineered Wood, Clean Pallets and Crates, Other Wood Wastes. As such, these materials SHOULD NOT BE INCLUDED AS ORGANIC WASTES. Such materials observed in older sections of landfills, find them not to readily decompose and have minimal contribution to landfill's methane production.	<p>The regulations already allow organic waste, which can include non-hazardous wood and dry lumber, to be included in the green container. The regulations also already allow for non-hazardous wood and dry lumber to be included in the blue container. Regarding treated hazardous wood waste, CalRecycle revised Section 18984.1 to add a new subsection indicating that this material should not be allowed in the blue container.</p>
4014	Wyse, J, Pacific Waste Services	"based on the 2014 organic waste disposal baseline," from CalRecycle 2014 Waste Characterization Study (per definition 72), which has discrepancy on materials description and listings versus "Organic Waste" definition. Does local jurisdiction have to prove compliance? Who will be the specific jurisdiction on the hook for compliance? Site Specific Jurisdiction? Specific Local Landfill(s)? County IWMA? Multiple sources including waste haulers, recyclers, composters, landfills?	<p>As stated in Initial Statement of Reasons, Article 3... "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 setting a recovery rate as a performance standard that jurisdictions must meet and then holding jurisdictions 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. This requires CalRecycle to prescribe the types of programs that regulated entities must implement in order to achieve the state's targets." There is no requirement in the regulations to submit specific documentation of reduction of landfill disposal as described in the comment.</p> <p>For the purposes of these regulations, the "organics" list is a combination of "Organics" in the CalRecycle's 2014 Waste Characterization Study and other identified material types that can produce GHG's in categories such as "inert" from CalRecycle's 2014 Waste Characterization Study.</p>
4015	Wyse, J, Pacific Waste Services	Who is responsible for providing the documentation which forms the basis for compliance with the statewide target?	The organic waste diversion target in statute is statewide and compliance is not enforced on individual jurisdictions. That said, reporting and recordkeeping requirements applicable to all jurisdictions will be an information source for CalRecycle to determine whether the statewide target is being achieved.
4016	Wyse, J, Pacific Waste Services	The 2014 organic waste disposal baseline uses the total tons of organic waste disposed statewide in 2014, calculated by CalRecycle's 2014 Waste Characterization Study. Are each jurisdiction required to submit documentation of local reductions	Individual jurisdictions are subject to reporting and recordkeeping requirements that will be used to measure compliance with the regulations as well as evaluating overall statewide achievement of the organic waste diversion targets in statute.

Comment Number	Received From	Question/Comment	Response(s)
		given each jurisdiction baseline may be different? Proposed SLCP Regulations definition for "Organic Waste" is different than the material listings in "CalRecycle's 2014 Waste Characterization Study". One example is Clean Dimensional Lumber, Clean Engineered Wood, Clean Pallets and Crates, Other Wood Waste are listed as Inert in the "CalRecycle's 2014 Waste Characterization Study" versus those materials are defined as "Organic Waste" in the Proposed SLCP Regulations.	
4017	Wyse, J, Pacific Waste Services	The description contained in this section appears consistent with historic compliance where the facility provides documentation on proposed activities in the form of an RDSI amendment. CalRecycle reviews, approves and public notices changes. Is this regulation intended to be consistent with the historic compliance?	18983.1(b)(5)(B) allows use of organic material as soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill, when the material is used in a manner that complies with standard practices specified in the Report of Disposal Site Information, as required by 27 CCR, Section 21600(b)(6). If an existing RDSI doesn't have standard practices, an RDSI amendment can be considered.
4018	Wyse, J, Pacific Waste Services	Historical RWQCB/CalRecycle approved mixing of ground wood waste and biosolids to reduce moisture in biosolids and creating a soil amendment for erosion control, revegetation, slope stabilization or landscaping would continue to be an accepted use compliant with 18983.1(b)(5)? If not advise why it is not.	Those materials are organic and if they are used in a manner consistent with 18983.1 and applicable solid waste permitting requirements, it would be allowable.
3285	Yakimow, C., Town of Yucca Valley	1. Definition 36, "Jurisdiction", now includes a special district that provides solid waste handling services as well as a city or county, or a city and county. However the remainder of the definition implies that only a city or county, or a city and county, may utilize a Joint Powers Authority to comply with the requirements of the chapter, and that the individual city, county, or city and county shall remain ultimately responsible for compliance. That clause should be revised to reference "jurisdictions" to include special districts; or by adding special districts to the existing provision.	CalRecycle revised Section 18982(a)(36) in response to this comment. This change is necessary to clarify that special districts are included in the definition of "Jurisdiction" and are subject to the requirements of Chapter 12.
3286	Yakimow, C., Town of Yucca Valley	2. Definition 42, "Non-local entity", includes special districts. This should be revised since special districts providing solid waste handling services are included as "jurisdictions". Special districts that don't provide solid waste handling services would be subject to a jurisdiction's regulations, so the reference is best eliminated.	The term 'special districts,' which is part of the definition of 'non-local entity,' includes county facilities that are considered to be agents of the state and are not subject to local ordinances. Also, to clarify that the definition Section 18982(a)(42) for 'Non-local entity' includes county fairgrounds that are under the authority of the California Department of Food and Agriculture.
3287	Yakimow, C., Town of Yucca Valley	3. Definition 46, "Organic waste" does not address multi-material products that may include "non-organic recyclables" (Definition 43). Please clarify that organic waste items that include non-organic recyclables (or materials) are not "organic waste".	Comment noted. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute. The definition of organic waste clearly identifies materials that are types of organic waste. It is not feasible or necessary to state in the negative every conceivable material that is not an organic waste.

Comment Number	Received From	Question/Comment	Response(s)
3288	Yakimow, C., Town of Yucca Valley	4. Definition 51, "Paper products" has the same multi-material issues as Definition 46. Packaging, and building insulation and panels especially are problematic.	CalRecycle has revised section 18982(51) in response to this comment. The changes include the deletion of "building insulation and panels" from the Paper Products definition. The change clarifies that these products are excluded from the definition and are not part of the suite of options available to a jurisdiction for purchasing recycled content and recyclable paper. While CalRecycle has made the recommended change, it should be noted that the broad range of products listed in the Paper Products definition is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. However, CalRecycle recognizes that building insulation and panels would likely not meet the requirements for recyclability specified in section 18993.3(c)(2) and therefore agrees with the proposed revision. Section 18993.3(c)(2) requires that paper products and printing and writing paper is eligible to be labeled with an unqualified recyclable label as defined by the Federal Trade Commission. Currently, multi-material products (e.g. plastic-lined paper cups and plastic-coated) are not recyclable and are landfilled. The production of nonrecyclable organic materials compromises the state's ability to achieve the organic waste recycling goals. The purpose of this section is to ensure jurisdictions comply with the procurement requirement by purchasing recyclable items, thereby reducing the introduction of nonrecyclable organics into the marketplace. Jurisdictions can comply with this requirement by focusing their procurement on products that can actually be recycled. This limitation therefore alleviates the need to curtail the definition of paper products as suggested.
3289	Yakimow, C., Town of Yucca Valley	5. "Non-compostable paper" is included in Definition 558. Please include a definition of "non-compostable paper" that includes paper not accepted at an organic waste processing facility receiving the jurisdiction's collected organic material.	CalRecycle declines the suggested change. The language at issue, as worded, is an option for capacity demonstration but is not a requirement for demonstration.
3290	Yakimow, C., Town of Yucca Valley	6. Please provide guidance for determining that a "Restaurant" (Definition 64) is primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption. The threshold for "primarily engaged" isn't clear for fast-food businesses with both sit-down and take-out orders.	To clarify, whether the restaurant offers sit-down or take-out orders is irrelevant because fast food is prepared for 'immediate consumption.' If a fast food business is primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption and meets the 250 or more seats or total facility size equal to or greater than 5,000 square feet threshold, then that restaurant must comply with SB 1383's commercial edible food generator requirements.
3291	Yakimow, C., Town of Yucca Valley	7. Section 18984.2 describes "Two-container Organic Waste Collection Services." This section needs to be clarified as it tries to cover both source separation and limited mixed waste (unsegregated) collection. (a) (1) states that "[t]he green container shall be for the collection of organic waste only. The contents of the green container shall be transported to a facility that specifically recovers source separated organic waste". (a)(2) provides that "[t]he blue container shall be for the collection of all non-organic waste" and may be used for specified organic wastes. However (a)(3) allows either container to be used for the collection of both organic waste and non-organic waste, requiring transportation to high diversion organic waste processing. Please add specific language authorizing collection under (a)(3) regardless of the prior provisions. The prohibited materials in (a)(5) also should be allowed in a green container used per (a)(3).	CalRecycle is not aware of a two-container service that represents the description offered in the comment. Further, this comment was discussed at the workshop presentation CalRecycle gave in July. It was discussed that even in these container systems there is still typically non-compostable or non-digestible organic waste (e.g. plastic-coated paper) that would be collected in the gray container.

Comment Number	Received From	Question/Comment	Response(s)
3292	Yakimow, C., Town of Yucca Valley	8. Section 18984.3(e) allows organic waste in bags placed in grey containers. Bags also should be allowed in the two-container option under 18984.2(a)(3).	<p>Bags are allowed in the two-container system. The facility would notify the jurisdiction that it no longer accepts compostable plastics. A facility accepting these materials would typically notify the jurisdiction as part of the facility's normal operating procedures.</p> <p>CalRecycle already revised Sections 18984.1, 18984.2, and 18984.3(e) to provide clarity about when a jurisdiction may allow plastic bags to be placed in containers. The issue of whether to allow bags hinges primarily on whether or not the receiving facility will accept them. Many facilities are not accepting bags because of operational problems and product quality issues. In order to document jurisdiction decisions about the use of bags, CalRecycle also revised Section 18984.4(a) to require that jurisdictions keep information in their records about the facilities to which they send bags.</p> <p>The regulatory language already allows plastic bags to be removed. For any plastic bags, including compostable plastic bags, a facility receiving such material will have to notify the appropriate jurisdiction that compostable plastics will not be recovered at the facility.</p> <p>It would be acceptable for the facility to provide the letter to the hauler and the hauler would provide the letter to the City.</p> <p>Nothing precludes a facility from specifying the type of resins and products the facility will accept. The written notification from the facility is given to the jurisdiction every 12 months after the regulation takes effect. As many stakeholders have noted markets and technology is are dynamic. A solid waste facility needs the ability to determine that accepting plastic bags or compostable plastics is no longer feasible and have the ability to notify a jurisdiction. This may trigger and require behavior change for the collection program in order to improve overall recovery. The notification requirement is intended to foster this. The requirement to annually check with the facility that bags are still allowed is not onerous or burdensome.</p>
3293	Yakimow, C., Town of Yucca Valley	9. Section 18984.5 requires two container system monitoring with no allowance for a container meeting 18984.2(a)(3), which should not be monitored as a source separated container. Please clarify that the container selected in 18984.2(a)(3) is exempt from such monitoring.	The container contamination monitoring is for both containers in a two-container collection service.
3294	Yakimow, C., Town of Yucca Valley	10. Section 18984.S(c) triggers container inspections resulting from prohibited container contaminants at a facility. This provision sufficiently guards against container contamination, and should be used as the threshold for conducting route and container inspections. The 18984.S(b) provision requiring that all routes be monitored quarterly is unnecessarily burdensome and cost-ineffective and should be eliminated in favor of verified route contamination at a facility.	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. CalRecycle also revised the frequency to annual.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. CalRecycle also revised the frequency to annual.</p> <p>These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3295	Yakimow, C., Town of Yucca Valley	11. Businesses should not need to provide organic containers if no organic material is sold or generated in customer areas, and 18984.9 should be revised accordingly. Paper accepted in a community's recycling program should not be considered organic under this provision.	<p>This section is necessary since 40 percent of organic waste is generated at commercial businesses and this section ensure that organic waste recovery options are available in nearly all places that commercial waste is generated. CalRecycle has already included a physical space waiver that addresses legitimate space concerns in business. Nothing in the draft regulations prevents printing and writing paper from achieving its "highest and best use" via recycling. The inclusion of printing and writing paper in the organic waste definition is due to the fundamental fact that paper is an organic material, made from fiber.</p>
3296	Yakimow, C., Town of Yucca Valley	12. The low population waiver, Section 18984.12(a), includes 2014 tonnage as a second threshold. Tonnage is a more appropriate threshold for achieving the regulations goals, and cities should be considered for waivers if their 2014 tonnage is below 5,000 regardless of population.	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7)</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife’s black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383’s organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
3297	Yakimow, C., Town of Yucca Valley	13. Expand the rural area definition in 18984.12(c) to include the existing provisions of Section 14571(A) of the California Beverage Container Recycling & Litter Reduction Act. This would provide flexibility to a rigid population limit, while focusing on low disposal and rural community issues not recognized by the traditional Rural County exemption.	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially

Comment Number	Received From	Question/Comment	Response(s)
			<p>exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-document history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the</p>

Comment Number	Received From	Question/Comment	Response(s)
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3298	Yakimow, C., Town of Yucca Valley	<p>14. Include 18984.12 waiver language recognizing the financial impacts on economically disadvantaged communities. California EPA sets its disadvantaged communities designation by using 80% of statewide median as the threshold, which is \$49,454. The cost of compliance with these regulations should not disproportionately burden California's economically disadvantaged communities. CalRecycle's Standardized Regulatory Impact Assessment estimates statewide annual direct impact costs of \$17 per household. Households in communities with 50% of statewide median income should not be expected to incur more than \$8.50 annually.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state. Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA’s definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act. As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural</p>

Comment Number	Received From	Question/Comment	Response(s)
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3299	Yakimow, C., Town of Yucca Valley	15. Section 18993.1 sets per capita organic procurement targets, including compost and renewable transportation fuel. That requirement may be limited by prior year's total fuel procurement. Need for jurisdiction compost should also be considered by calculating landscaped and turfed areas and appropriate application rates.	CalRecycle disagrees with the proposed method for basing procurement requirements on a jurisdiction's "landscaped and turfed areas." The term as proposed by stakeholders is undefined and subjective, making it prohibitively burdensome to verify. Allowing a jurisdiction to self-report public landscape areas and then estimate compost use without any reference dataset to back it up will create uneven standards and enforcement. Furthermore, counter to the apparent intent of the commenter this approach might make it less likely for a jurisdiction to reduce their procurement mandate.
3300	Yakimow, C., Town of Yucca Valley	16. Section 18996.2(a)(2)(C) describes extenuating circumstances that a jurisdiction may demonstrate when Cal Recycle considers substantial compliance efforts. Economically disadvantaged communities should be considered for "extenuating	CalRecycle declines the suggested change. Regulatory requirements apply to jurisdictions as opposed to communities so it would be difficult to adequately craft a workable enforcement relief option that may only apply to a portion of a jurisdiction.

Comment Number	Received From	Question/Comment	Response(s)
		<p>circumstances" resulting from disproportionately high compliance costs; and "substantial effort" should reflect such cost considerations.</p>	
6425	Yazdani, County of Yolo	<p>Section 18984.1. Three Container Organic Waste Collection Service Comments: Implementation of a 3rd cart at a household is estimated to increase residential garbage bills by 40% (approximately \$15 more/month/household). The Division does not feel a majority of our constituents can absorb this type of rate increase and is therefore looking at alternate options to increase organics diversion such as self-haul coupon based programs and at exemptions for some of our rural communities that have a population density of less than 50 people per square mile. The County would like to see language that allows rural jurisdiction to maintain compliance with residential based organics recycling with other methods besides a curbside cart.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p>

Comment Number	Received From	Question/Comment	Response(s)
6426	Yazdani, County of Yolo	Section 18984.12 Waivers and Exemption Granted by the Department Comments: This section defines that population density of less than 50 people per square mile will be exempt however there has been debate on who will make this determination. The County requests that Cal Recycle develop a database specifically outlining which communities across the state will be exempted instead of putting this task on County staff.	CalRecycle will provide tools and guidance to assist jurisdictions to easily identify which areas qualify.
6427	Yazdani, County of Yolo	Section 18989.1 Cal Green Building Codes Comments: This will increase county staff time needed beyond the current level of staffing to perform site visits to all businesses to document who can be exempted from the requirement of establishing a food waste program due to lack of trash enclosure space. CalRecycle should strike the language that requires past structures to comply and instead focus on new permits pulled after the effective date of this section.	Comment noted. Regarding staff time, CalRecycle acknowledges that compliance with environmental standards may require additional staff time, however with regards to this specific item on waivers, jurisdictions are not required to issue waivers, and therefore not required to invest staff time reviewing waivers if they elect to not provide them. the regulations do not include requirements for "past structures."
6428	Yazdani, County of Yolo	Section 18990.2 Edible Food Recovery Standards and Policies. Comments: While efforts are already underway to work with the Yolo County Food Bank to support food recovery, the mechanism defined in this section to fund the implementation, compliance and enforcement of this program is lacking a direct connection to the waste industry. Food recovery by definition places this food in the category of a product not waste therefore it is not reasonable to ask that landfill tip fees, solid waste haulers or solid waste franchise fees be used to subsidize this program. We request that CalRecycle strike the language that references these funding sources and instead developing an ongoing payment program system for jurisdictions to provide education, outreach and assistance and develop a competitive grant program for applicable businesses to apply for funding to assist with their efforts in gaining compliance.	A change to the regulatory text is not necessary. Section 18990.2 is necessary to clarify that a jurisdiction cannot limit a generator or food recovery organization from recovering edible food. This section is necessary to ensure that there are not significant barriers to expanding food recovery efforts in order to enable the state to meet its food recovery goals and maintain consistency with Public Resources Code 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." Furthermore, this section contains no discussion on funding mechanisms or funding sources.
6429	Yazdani, County of Yolo	Section 18991.3 Commercial Edible Food Generators Comments: While Tier One commercial edible food generators should have an easier way to comply with this new regulation we foresee it being very difficult for Tier Two commercial edible food generators to comply due to lack of infrastructure. Our recommendation is that alternate language is proposed for this section that clearly upholds the programs if infrastructure is in place but that these businesses be exempted if no infrastructure is available. For example: Tier One generators are large grocery stores such as Nugget Markets who should have little problem getting excess food over to the Food Bank Monday-Friday during normal 8am-5pm operating hours. When Tier Two generators, such as Taber Ranch in the Capay Valley and the Old Sugar Mill in Clarksburg, these are special event venues who host food generating events primarily in the evenings and on weekends when currently there is no type of drop off or pickup service available on evenings or weekends when most special events occur.	Section 18991.1 requires a jurisdiction to implement an edible food recovery program that includes the actions the jurisdiction will take to accomplish increasing 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. The regulations are structured so that jurisdictions will be required to begin edible food recovery capacity planning in 2022 to ensure that sufficient capacity exists to meet their edible food recovery needs. Tier two commercial edible food generators are required to comply in 2024. That gives the jurisdictions two additional years to build capacity if needed, and tier two generators two years more than the tier one generators to prepare for compliance. To address this comment, and the concerns about insufficient capacity to service commercial edible food generators, CalRecycle has revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. One of the extraordinary circumstances specified is a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity.

Comment Number	Received From	Question/Comment	Response(s)
			Therefore, if a jurisdiction has failed to increase edible food recovery capacity as is required by the edible food recovery capacity planning section of the regulations (Section 18992.2), then commercial edible food generators in that jurisdiction are not required to comply with the requirements of Section 18991.3 as long as they can demonstrate that the jurisdiction has failed to comply with SB 1383's edible food recovery capacity planning requirements. However, the regulations also specify that the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances.
6430	Yazdani, County of Yolo	Section 18994.2 Jurisdiction Annual Reporting Comments: Under section (i) Article 12 it requests that the County provide CalRecycle the dollar amount spent on recycled content paper and recycled content products. It seems unnecessary that the state would need to see our financials to prove compliance with recycled content purchases. It is requested that CalRecycle strike Section 18994.2.	CalRecycle has revised the regulatory language to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content. The reporting requirements in Section 18994.2 have also been updated to reflect this change by deleting the requirement for jurisdictions to report on the dollar amounts spent on paper and recycled content paper purchases.
6431	Yazdani, County of Yolo	Section 18993.1 Recovered Organic Waste Product Procurement Target Comments: (1) This requires a shift to renewable transportation fuel by 2022. Yolo County has invested significant resources into the conversion and use of electric vehicles which would not meet compliance with this new regulation. It is requested that CalRecycle include language that allows other alternative fuels to count towards compliance or language that allows for certain vehicle types to use renewable fuels such as heavy equipment from jurisdiction Public Works Departments; (2) It is requested that CalRecycle look at adding language to exempt Special Districts (JPAs, Cemetery Districts, Fire Districts, etc.) that work on behalf of rural jurisdiction in complying with this section; (3) For jurisdiction owning or operating compost facilities, providing an exemption from further having to procure compost.	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>The recovered organic waste product procurement target only applies to cities and counties. Due to overlap between a city's population and the population of a special district, the regulation was narrowed to only apply the procurement targets to cities and counties. Procurement targets will be assigned to each city and county based on population data published by the Department of Finance (DOF). The individual city or county is ultimately responsible for compliance with the procurement requirements, regardless of whether waste collection responsibilities are delegated to another entity. The procurement target is linked to the waste created by the population that resides within the city, not the number of generators provided a collection service. Whether the city or another entity provides the service is irrelevant, the residents of the city are creating waste and the city is responsible for procuring a minimum amount of recovered organic waste products to mitigate the impacts of that waste creation.</p> <p>It is the intent of Article 12 for jurisdictions to work with special districts and similar entities to meet the jurisdiction's procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU).</p> <p>CalRecycle disagrees with the recommended revisions. Jurisdictions owning or operating compost facilities may count the compost produced in those facilities and used or donated by the jurisdiction toward the procurement target. "Procure" does not necessarily mean purchased, and these jurisdictions are not required to further procure compost if they already meet the procurement target.</p>

Comment Number	Received From	Question/Comment	Response(s)
6432	Yazdani, County of Yolo	<p>Section 18993.4 Record Keeping Requirements for Recycled Content Paper Procurement</p> <p>Comments: This requires our Purchasing Department to provide CalRecycle with copies of all invoices and receipts demonstrating that recycled content paper has been purchased per the requirements set above. Suggested language would be that instead of all invoices, receipts and proof of recycled content certification being made available each year, the language reads that a report provides a summary of this data through our office supply vendors.</p>	<p>CalRecycle has revised Section 18993.4(a)(1) to allow proof of purchase other than receipts and invoices to be used.</p>
6433	Yazdani, County of Yolo	<p>Section 18994.2 Jurisdiction Annual Reporting</p> <p>Comments: Section (a) needs clarification</p> <p>We would like clarification on what this means. Our current system of reporting for a “calendar” year is January –December therefore this year (2019) for example we will report the following on our EAR (Jan.1, 2018-Dec. 3, 2018) on August 1, 2019. This allows is 7 months to prepare the report for CalRecycle. In reading the section highlighted in red if in 2022 only we are asked to do the following report Jan. 1-June 30, this would only allow haulers 15 approximately days to get us their data and allow the County approximately 15 days to review that data and compile a report by the August 1st deadline.</p> <p>Could you please verify if our interpretation is correct? In order for the County and its haulers to compile data and review it with accuracy we do not feel 30 days is sufficient. Could the reporting date in 2022 be moved to October 1st?</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>
6434	Yazdani, County of Yolo	<p>Also, it does not mention whether the normal Jan. 1, 2021-Dec. 31, 2021 data would need to be provided in the year 2022. Is this Jan.-June 2022 report in lieu of the calendar year report or is CalRecycle asking for two reports to be submitted in 2022?</p>	<p>A change to the regulatory text is not necessary. CalRecycle has revised section 18994.2 in response to this comment. If a jurisdiction submits its initial compliance report pursuant to section 18994.1 by April 1, 2022, a jurisdiction may submit its first report, covering the period of January 1, 2022 through June 30, 2022, on October 1, 2022. The Department will conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation with the requirements of this Chapter. This will allow CalRecycle an opportunity to assist jurisdictions in the implementation phase of the regulations. Most of the information required in the Annual Reporting can be assembled prior to the October 1, 2022 due date. The following Annual Report will cover January 1, 2022-December 31, 2022 and will be due August 1, 2023.</p>
6435	Yazdani, County of Yolo	<p>Section 18994.2 Jurisdiction Annual Reporting</p> <p>Comments: It is anticipated the level of reporting and preparing for this report will take a significant amount of time and attention on behalf of County Integrated Waste Management staff because we will not only be responsible for unincorporated County reporting, in several program areas, IWM staff will also be responsible for reporting on behalf of the cities (City of Woodland, West Sac, Winters and Davis) and UC Davis which all require outside agency coordination. The current “expectation” from CalRecycle over the past 4 years is that IWM staff provide updates and data throughout the year outside of what is required by law. It has been verbally communicated by the Local Area Market Development (LAMMD) staff at CalRecycle that its intentions are the same under SB1383. County staff would be required to provide updates and data throughout the year however this section only</p>	<p>Comment noted. The commenter is expressing an opinion regarding potential difficulties in implementing the regulations but is not suggesting particular language changes or commenting on the regulatory process itself.</p>

Comment Number	Received From	Question/Comment	Response(s)
		requires it on an annual basis. Challenging the current requests has put County staff in a bad position with the regulator who oversees our compliance. They have agreed that it is not required by law to provide these extra reports but recommends that it is in the best interest of the County to do so, which has created a lot of extra work for staff. We are asking CalRecycle to clearly take a position on this issue and ask that language be added to account for the additional staff time required to compile these reports and data mid-year or as a County we let the language stand and stand firm that no additional reports or data will be provided outside of these written requirements.	
6436	Yazdani, County of Yolo	Section 18995.1 Jurisdiction Inspection and Enforcement Requirements Comments: Funding will need to be created to pay for a code enforcement officer to write citations for rural businesses that do not segregate out their organic food waste or establish a food recovery system through the Food Bank, regardless of economic hardship on the business to establish such programs. County staff is already working with the businesses subjected to AB1826 requirements and have found numerous challenges due to the cost of organics collection and processing. Now that the threshold has narrowed further, we will be working with even smaller rural businesses and farms to comply. SB1383 requires an enforcement mechanism which is not currently in place under AB1826 which we believe will push small business out of state or rather it will be cheaper to pay the fee than to pay for the actual collection services and therefore the penalty will become the norm. We would like CalRecycle to explain what they are doing to help minimize the cost of organics collection.	Comment noted. The commenter is expressing an opinion regarding the potential cost and difficulties in implementing the regulations. The commenter does not suggest particular language changes or commentary on the regulatory process.
6437	Yazdani, County of Yolo	Section 18996.7 Department Enforcement Action Regarding Local Education Agencies Comments: This section asks the County to issue a citation if an educational agency (ex. UC Davis, Knights Landing Charter School, Clarksburg Elementary, etc.), is not in compliance. However, under our solid waste franchise agreements where these program are facilitated, the County nor our haulers (WM and Recology) have jurisdiction over educational agencies as they act independent. We currently report to the state if these educational agencies are in compliance and would continue to do so but do not feel we have the legal authority to impose fines on them and therefore this section should be eliminated.	A change to the regulatory text is not necessary. Article 5, Section 18986.1 and Section 18986.2 described the compliance requirements for non-local entities and local education agencies. For the purposes of these regulations, non-local entities and local education agencies are considered organic waste generators and have specific requirements to comply and are not held to the same standards as jurisdictions. Section 18996.7 does not require local jurisdictions to enforce against local education agencies. This enforcement will be conducted by the Department.
6438	Yazdani, County of Yolo	Section 17896.25.1 Load checking – Contamination in Source Separated Organic Waste Comments: The Yolo County Central Landfill will need to increase organics tip fees to allow for the increased staff time to monitor organics loads coming inbound to our digester and track contamination (trash mixed in with food waste). It is required that 2 load checks be completed each day and records are kept on whether these loads were accepted, rejected, what was in the load, who the hauler was, jurisdiction of origin, etc. and that the full 718 load checks for the year are reported in detail with our electronic annual report. This section also includes annual verification that staff have been trained on load check who monitor the new	CalRecycle has deleted the loadchecking requirements, Section 17896.25.1 in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
		<p>digester at the landfill. This will further increase costs associated with the processing of organics therefore we recommend that the language be modified to do no more than 5 each week for a total of 260 inspections per year.</p>	
3358	Yazdani, R., County of Yolo	<p>Section 18984.1. Three Container Organic Waste Collection Service Comments: Implementation of a 3rd cart at a household is estimated to increase residential garbage bills by 40% (approximately \$15 more/month/household). The Division does not feel a majority of our constituents can absorb this type of rate increase and is therefore looking at alternate options to increase organics diversion such as self-haul coupon based programs and at exemptions for some of our rural communities that have a population density of less than 50 people per square mile. The County would like to see language that allows rural jurisdiction to maintain compliance with residential based organics recycling with other methods besides a curbside cart.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>
3359	Yazdani, R., County of Yolo	<p>Section 18984.12 Waivers and Exemption Granted by the Department</p> <p>Comments: This section defines that population density of less than 50 people per square mile will be exempt however there has been debate on who will make this determination. The County requests that Cal Recycle develop a database specifically outlining which communities across the state will be exempted instead of putting this task on County staff.</p>	<p>CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers.</p> <p>CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state.</p> <p>Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4) jurisdictions with populations > 5,000 people and that are low-income disadvantaged</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals. Per the regulations, an approved waiver should be applicable for 5 years. However, unlike census tracts, census blocks may change in any year in-between censuses. As a result, census blocks can merge/split/change</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>during the course of the waived period, which could result in waived census blocks changing configuration during the waived period. This would require the Department to completely rebuild a database of 710,000 census block data points whenever a waiver request is being reviewed, as opposed to simply updating the population density from the most recent census.</p> <p>Given the fact that census blocks change, CalRecycle would have no way of quantifying the total amount of organic material potentially exempted.</p> <p>In addition, some census blocks are very low, or no, population areas (parks, businesses, etc.), making it difficult to ascertain which census blocks have populations that should be served and which do not. There also could be commercial census blocks in major cities that are large waste generators but technically do not meet the population density threshold.</p> <p>With respect to greenhouse gas emission, CalRecycle is not able to ascertain any method of objectively defining greenhouse gas emissions within census tracts or blocks, further this only addresses one part of the statute, greenhouse gas reduction, and ignores the central organic waste reduction requirement. For example black carbon generation in a census tract is unrelated to organic waste generation.</p>
3360	Yazdani, R., County of Yolo	<p>Section 18989.1 Cal Green Building Codes</p> <p>Comments: This will increase county staff time needed beyond the current level of staffing to perform site visits to all businesses to document who can be exempted from the requirement of establishing a food waste program due to lack of trash enclosure space. CalRecycle should strike the language that requires past structures to comply and instead focus on new permits pulled after the effective date of this section.</p>	<p>Comment noted. Regarding staff time, CalRecycle acknowledges that compliance with environmental standards may require additional staff time, however with regards to this specific item on waivers, jurisdictions are not required to issue waivers, and therefore not required to invest staff time reviewing waivers if they elect to not provide them. the regulations do not include requirements for “past structures.”</p>
3361	Yazdani, R., County of Yolo	<p>Section 18990.2 Edible Food Recovery Standards and Policies.</p> <p>Comments: While efforts are already underway to work with the Yolo County Food Bank to support food recovery, the mechanism defined in this section to fund the implementation, compliance and enforcement of this program is lacking a direct connection to the waste industry. Food recovery by definition places this food in the category of a product not waste therefore it is not reasonable to ask that landfill tip fees, solid waste haulers or solid waste franchise fees be used to subsidize this program. We request that CalRecycle strike the language that references these funding sources and instead developing an ongoing payment program system for jurisdictions to provide education, outreach and assistance and develop a competitive grant program for applicable businesses to apply for funding to assist with their efforts in gaining compliance.</p>	<p>Nothing in SB 1383’s edible food recovery regulations requires jurisdictions to provide funding. The language in the regulations regarding funding is permissive. The language states that a jurisdiction may fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms. The regulatory language uses the word “may” and not “shall.” This language does not require jurisdictions to provide funding. Rather, it allows jurisdictions to provide funding if they would like to do so. Also, SB 1383 provides a broad grant of authority to jurisdictions to “collect fees to recover the local jurisdiction’s costs incurred in complying with the regulations...” The types of fees a jurisdiction may impose are not limited to tip fees or franchise fees. That said, some jurisdictions in California are already successfully using such fees to fund food recovery operations and activities.</p>
3362	Yazdani, R., County of Yolo	<p>Section 18991.3 Commercial Edible Food Generators</p> <p>Comments: While Tier One commercial edible food generators should have an easier way to comply with this new regulation we foresee it being very difficult for Tier Two commercial edible food generators to comply due to lack of infrastructure. Our recommendation is that alternate language is proposed for this section that clearly upholds the programs if infrastructure is in place but that these businesses be exempted if no infrastructure is available. For example: Tier One generators are large grocery stores such as Nugget Markets who should have little problem getting</p>	<p>Section 18991.1 requires a jurisdiction to implement an edible food recovery program that includes the actions the jurisdiction will take to accomplish increasing 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. The regulations are structured so that jurisdictions will be required to begin edible food recovery capacity planning in 2022 to ensure that sufficient capacity exists to meet their edible food recovery needs. Tier two commercial edible food generators are required to comply in 2024. That gives the jurisdictions two additional</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>excess food over to the Food Bank Monday-Friday during normal 8am-5pm operating hours. When Tier Two generators, such as Taber Ranch in the Capay Valley and the Old Sugar Mill in Clarksburg, these are special event venues who host food generating events primarily in the evenings and on weekends when currently there is no type of drop off or pickup service available on evenings or weekends when most special events occur.</p>	<p>years to build capacity if needed, and tier two generators two years more than the tier one generators to prepare for compliance.</p> <p>To address this comment, and the concerns about insufficient capacity to service commercial edible food generators, CalRecycle has revised Section 18991.3. Specifically, language was added to specify that a commercial edible food generator shall comply with the requirements of Section 18991.3 unless the commercial edible food generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. One of the extraordinary circumstances specified is a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18992.2, Edible Food Recovery Capacity. Therefore, if a jurisdiction has failed to increase edible food recovery capacity as is required by the edible food recovery capacity planning section of the regulations (Section 18992.2), then commercial edible food generators in that jurisdiction are not required to comply with the requirements of Section 18991.3 as long as they can demonstrate that the jurisdiction has failed to comply with SB 1383's edible food recovery capacity planning requirements. However, the regulations also specify that the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances.</p>
3363	Yazdani, R., County of Yolo	<p>Section 18994.2 Jurisdiction Annual Reporting Comments: Under section (i) Article 12 it requests that the County provide CalRecycle the dollar amount spent on recycled content paper and recycled content products. It seems unnecessary that the state would need to see our financials to prove compliance with recycled content purchases. It is requested that CalRecycle strike Section 18994.2.</p>	<p>CalRecycle has revised the regulatory language to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content. The reporting requirements in Section 18994.2 have also been updated to reflect this change by deleting the requirement for jurisdictions to report on the dollar amounts spent on paper and recycled content paper purchases.</p>
3364	Yazdani, R., County of Yolo	<p>Section 18993.1 Recovered Organic Waste Product Procurement Target Comments: (1) This requires a shift to renewable transportation fuel by 2022. Yolo County has invested significant resources into the conversion and use of electric vehicles which would not meet compliance with this new regulation. It is requested that CalRecycle include language that allows other alternative fuels to count towards compliance or language that allows for certain vehicle types to use renewable fuels such as heavy equipment from jurisdiction Public Works Departments; (2) It is requested that CalRecycle look at adding language to exempt Special Districts (JPAs, Cemetery Districts, Fire Districts, etc.) that work on behalf of rural jurisdiction in complying with this section; (3) For jurisdiction owning or operating compost facilities, providing an exemption from further having to procure compost.</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>The recovered organic waste product procurement target only applies to cities and counties. Due to overlap between a city's population and the population of a special district, the regulation was narrowed to only apply the procurement targets to cities and counties. Procurement targets will be assigned to each city and county based on population data published by the Department of Finance (DOF). The individual city or county is ultimately responsible for compliance with the procurement requirements, regardless of whether waste collection responsibilities are delegated to another entity. The procurement target is linked to the waste created by the population that resides within the city, not the number of generators provided a collection service. Whether the city or another entity provides the service is irrelevant, the residents of the city are creating waste and the city is responsible for procuring a minimum amount of recovered organic waste products to mitigate the impacts of that waste creation.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>It is the intent of Article 12 for jurisdictions to work with special districts and similar entities to meet the jurisdiction’s procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU).</p> <p>CalRecycle disagrees with the recommended revisions. Jurisdictions owning or operating compost facilities may count the compost produced in those facilities and used or donated by the jurisdiction toward the procurement target. “Procure” does not necessarily mean purchased, and these jurisdictions are not required to further procure compost if they already meet the procurement target.</p>
3365	Yazdani, R., County of Yolo	<p>Section 18993.4 Record Keeping Requirements for Recycled Content Paper Procurement</p> <p>Comments: This requires our Purchasing Department to provide CalRecycle with copies of all invoices and receipts demonstrating that recycled content paper has been purchased per the requirements set above. Suggested language would be that instead of all invoices, receipts and proof of recycled content certification being made available each year, the language reads that a report provides a summary of this data through our office supply vendors.</p>	CalRecycle has revised Section 18993.4(a)(1) to allow proof of purchase other than receipts and invoices to be used.
3366	Yazdani, R., County of Yolo	<p>Section 18994.2 Jurisdiction Annual Reporting</p> <p>Comments: Section (a) needs clarification</p> <p>(a) Commencing August 1, 2022, and annually thereafter, a jurisdiction shall report the information required by this section. The report submitted in 2022 shall cover the period of January 1, 2022-June 30, 2022. Each subsequent report shall cover the entire previous calendar We would like clarification on what this means. Our current system of reporting for a “calendar” year is January –December therefore this year (2019) for example we will report the following on our EAR (Jan.1, 2018-Dec. 3, 2018) on August 1, 2019. This allows is 7 months to prepare the report for CalRecycle. In reading the section highlighted in red if in 2022 only we are asked to do the following report Jan. 1-June 30, this would only allow haulers 15 approximately days to get us their data and allow the County approximately 15 days to review that data and compile a report by the August 1st deadline.</p> <p>1. Could you please verify if our interpretation is correct? In order for the County and its haulers to compile data and review it with accuracy we do not feel 30 days is sufficient. Could the reporting date in 2022 be moved to October 1st?</p> <p>2. Also, it does not mention whether the normal Jan. 1, 2021-Dec. 31, 2021 data would need to be provided in the year 2022. Is this Jan.-June 2022 report in lieu of the calendar year report or is CalRecycle asking for two reports to be submitted in 2022?</p>	This section was changed in response to stakeholder comments for improved clarity and adequate reporting time for the first compliance year.
3367	Yazdani, R., County of Yolo	<p>Section 18994.2 Jurisdiction Annual Reporting</p> <p>Comments: It is anticipated the level of reporting and preparing for this report will take a significant amount of time and attention on behalf of County Integrated Waste Management staff because we will not only be responsible for unincorporated</p>	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.

Comment Number	Received From	Question/Comment	Response(s)
		<p>County reporting, in several program areas, IWM staff will also be responsible for reporting on behalf of the cities (City of Woodland, West Sac, Winters and Davis) and UC Davis which all require outside agency coordination. The current “expectation” from CalRecycle over the past 4 years is that IWM staff provide updates and data throughout the year outside of what is required by law. It has been verbally communicated by the Local Area Market Development (LAMD) staff at CalRecycle that its intentions are the same under SB1383. County staff would be required to provide updates and data throughout the year however this section only requires it on an annual basis. Challenging the current requests has put County staff in a bad position with the regulator who oversees our compliance. They have agreed that it is not required by law to provide these extra reports but recommends that it is in the best interest of the County to do so, which has created a lot of extra work for staff. We are asking CalRecycle to clearly take a position on this issue and ask that language be added to account for the additional staff time required to compile these reports and data mid-year or as a County we let the language stand and stand firm that no additional reports or data will be provided outside of these written requirements.</p>	
3368	Yazdani, R., County of Yolo	<p>Section 18995.1 Jurisdiction Inspection and Enforcement Requirements Comments: Funding will need to be created to pay for a code enforcement officer to write citations for rural businesses that do not segregate out their organic food waste or establish a food recovery system through the Food Bank, regardless of economic hardship on the business to establish such programs. County staff is already working with the businesses subjected to AB1826 requirements and have found numerous challenges due to the cost of organics collection and processing. Now that the threshold has narrowed further, we will be working with even smaller rural businesses and farms to comply. SB1383 requires an enforcement mechanism which is not currently in place under AB1826 which we believe will push small business out of state or rather it will be cheaper to pay the fee than to pay for the actual collection services and therefore the penalty will become the norm. We would like CalRecycle to explain what they are doing to help minimize the cost of organics collection.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline and the Department acknowledges that infrastructure to handle the diversion of this material is key to achieving those legislative mandates. The Department has included provisions in the proposed regulations allowing for delayed enforcement in cases where extenuating circumstances beyond the control of a jurisdiction, such as deficiencies in organic waste recycling infrastructure or delays in obtaining discretionary permits or governmental approvals, make compliance with the regulations impracticable. The Legislature in SB 1383 furthermore authorizes local jurisdictions to charge and collect fees to offset the cost of complying with the proposed regulations. Regarding environmental issues regarding expected infrastructure expansion, those issues were addressed in the Environmental Impact Report that was prepared and certified by the Department for this rulemaking, and was subject to public comment, pursuant to the requirements of the California Environmental Quality Act (CEQA). CalRecycle acknowledges that the proposed regulations will require regulated entities to invest in actions and programs that will reduce pollution and protect the environment. The timelines were established in the statute and the regulations are necessarily designed to impose requirements in a manner that is in alignment with the ambitious statutory timelines. The legislation did not provide a dedicated source of state funding to fund compliance with the regulations but did provide a specific allowance for local jurisdictions to charge fees to offset their costs of complying.</p>
3369	Yazdani, R., County of Yolo	<p>. Section 18996.7 Department Enforcement Action Regarding Local Education Agencies Comments: This section asks the County to issue a citation if an educational agency (ex. UC Davis, Knights Landing Charter School, Clarksburg Elementary, etc.), is not in compliance. However, under our solid waste franchise agreements where these program are facilitated, the County nor our haulers (WM and Recology) have jurisdiction over educational agencies as they act independent. We currently report</p>	<p>A change to the regulatory text is not necessary. Section 18996.5 and Section 18996.7 state that a jurisdiction does not have authority to take enforcement action against entities outside their boundaries or that are not subject to local solid waste control.</p>

Comment Number	Received From	Question/Comment	Response(s)
		to the state if these educational agencies are in compliance and would continue to do so but do not feel we have the legal authority to impose fines on them and therefore this section should be eliminated.	
3370	Yazdani, R., County of Yolo	<p>. Section 17896.25.1 Load checking – Contamination in Source Separated Organic Waste</p> <p>Comments: The Yolo County Central Landfill will need to increase organics tip fees to allow for the increased staff time to monitor organics loads coming inbound to our digester and track contamination (trash mixed in with food waste). It is required that 2 load checks be completed each day and records are kept on whether these loads were accepted, rejected, what was in the load, who the hauler was, jurisdiction of origin, etc. and that the full 718 load checks for the year are reported in detail with our electronic annual report. This section also includes annual verification that staff have been trained on load check who monitor the new digester at the landfill. This will further increase costs associated with the processing of organics therefore we recommend that the language be modified to do no more than 5 each week for a total of 260 inspections per year.</p>	CalRecycle has deleted the loadchecking requirements, Section 17896.25.1 in response to comments.
3371	Yazdani, R., County of Yolo	<p>TITLE 14: NATURAL RESOURCES 4 DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY</p> <p>Chapter 3. Minimum Standards for Solid Waste Handling and Disposal</p> <p>Article 6.2 Operating Standards</p> <p>Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream.</p> <p>Section 17409.5.3. Measuring Organic Waste in Residuals Removed from Mixed Waste Organic Collection Stream.</p> <p>Section 17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream.</p> <p>Section 17409.5.5. Measuring Organic Waste in Residuals Removed from Source Separated Organic Waste Collection Stream.</p> <p>Chapter 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements</p> <p>Article 3. Operating Standards for In-Vessel Digestion Operations and Facilities</p> <p>Section 17896.44.1. Measuring Organic Waste in Residuals</p> <p>These above sections listed contain several requirements intended to quantify, on a daily basis, the amounts of organic waste at various process stages. We appreciate and agree with the goal of gaining better understanding of residue levels after processing, but we are unclear as to how this would result in reduction of SCLP emission. We suggest revising the section to state that the frequency, procedures, and sample sizes used in the testing involved in these sections be developed using scientific methods by the Operators in conjunction with the EA. The methods developed should consider site specific operations, waste streams, and methods of processing. The proscribed method would increase level of staffing and equipment</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite sample be a random and representative of a typical operating day for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard.</p> <p>The sampling frequency 10 consecutive days was based on that 2 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 the “2014 Disposal-Facility- Based Characterization of Solid Waste in California”, 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% 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%, 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</p>

Comment Number	Received From	Question/Comment	Response(s)
		unnecessarily and results in substantial cost to consumers for the handling of organic wastes.	<p>Cardboard” or “Food”, rather just “Organic” or “Not Organic”, it is rational to average the 2 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 samples.</p> <p>Additionally, after consulting with divisions within CalRecycle, 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” collections streams are reflected in the sampling. Based on the expert 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 get the needed data.</p> <p>The 200 pounds is what was used for the Statewide waste characterization studies performed during the past 5 years by California (CalRecycle), Washington, New York, Georgia and Connecticut have used a sample weight between 200 to 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds be used in waste characterization related studies.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p>
3372	Yazdani, R., County of Yolo	<p>TITLE 14: NATURAL RESOURCES 4 DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY</p> <p>Chapter 3. Minimum Standards for Solid Waste Handling and Disposal</p> <p>Article 6.2 Operating Standards</p> <p>Section 17409.5.7. Loadchecking – Contamination in Source Separated Organic Waste.</p> <p>Chapter 3.1. Composting Operations Regulatory Requirements</p> <p>Article 5.0. Composting Operation and Facility Siting and Design Standards</p> <p>Section 17867. General Operating Standards.</p> <p>Chapter 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements</p> <p>Article 2.0. Siting and Design</p> <p>Section 17896.25.1. Loadchecking – Contamination in Source Separated Organic Waste</p> <p>TITLE 27. ENVIRONMENTAL PROTECTION</p> <p>Division 2. Solid Waste</p> <p>Chapter 3. Criteria for All Waste Management Units, Facilities, and Disposal Sites</p> <p>Subchapter 4. Criteria for Landfills and Disposal Sites</p> <p>Article 4. CIWMB CalRecycle—Controls</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17049.5.7 in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>§20901. CalRecycle—Loadchecking Contamination in Source Separated Organic Waste.</p> <p>The above sections listed load check requirement of two per day, regardless of volume is excessive. At YCCL we operate 360 days per year, so that would be over 700 formal load checks on organic wastes alone. The load check requirements should be phrased similarly to the existing load check requirements for operators (See Sections 17409.5 and 17896.25.). In addition, the notification requirement should be modified to limit notifications to substantial contamination loads or rejected loads, rather than every load with visible contamination.</p>	
3373	Yazdani, R., County of Yolo	<p>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 2: Alternative Daily Cover Material and Beneficial Reuse §20700.5. CalRecycle—Long-Term Intermediate Cover.</p> <p>We understand that goal of increasing the thickness of landfill intermediate cover from the current 12 inches to 36 inches is to reduce potential fugitive emissions from SLCP. There are many site specific conditions that can influence these emissions such as type of intermediate cover, soil type, soil moisture, average rainfall, ambient temperature, and landfill gas collection efficiency. Please see publication listed here for additional data collected from various sites in various conditions (C. Douglas Goldsmith Jr., Jeffrey Chanton, Tarek Abichou, Nathan Swan, Roger Green & Gary Hater (2012) Methane emissions from 20 landfills across the United States using vertical radial plume mapping, Journal of the Air & Waste Management Association, 62:2, 183-197).</p> <p>The cover thickness without consideration of these factors does not necessary yield reduction in the SLCP emissions. Requirement to increase the cover thickness should be evaluated together with the above mentioned factors. Increasing the cover thickness in all areas of intermediate cover without looking at other site specific factor could result in hauling more cover soil and increasing the overall SLCP and other climate pollutant emissions from the site. Currently landfill operators already have required monitoring, corrective action, and reporting under the Methane Emissions from Municipal Solid Waste Landfills (Title 17 CCR 95460 to 95476) for surface methane emissions. The first corrective action taken in an area with emissions is to increase gas collection efficiency. Following this, if emissions are not reduced, the operators will adjust the intermediate cover (compaction, moisture conditioning, additional cover material, etc) to reduce SLCP emissions. This has been demonstrated to have the intended effect of reducing fugitive SLCP emissions.</p> <p>Another method to reduce fugitive emissions that has been demonstrated to be effective is the use of biocover material. One such demonstration projects was</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>funded by CalRecycle in 2011 (“Biocovers at Landfills for Methane Emissions Reduction Demonstration” Link: https://www2.calrecycle.ca.gov/Publications/Details/1367) and published in Waste Management Journal in 2015 (Changgen Mei, Ramin Yazdani, Byunghyun Han, Erfan Mostafid, Jeff Chanton, Jean Vander Gheynst, Paul Imhoff (2015) ”Performance of Green Waste Biocovers for Enhancing Methane Oxidation”, Waste Management, 39, 205-215. This method can reduce the need for additional cover soil and maintain ideal condition for cover soil to reduce SLCP emissions. The biocover acts to prevent cracking, and maximize gas collection efficiency as demonstrated in this research study.</p>	
3374	Yazdani, R., County of Yolo	<p>Chapter 4. Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans Article 3.2. CalRecycle—Other Requirements §21695. CalRecycle—Organic Disposal Reduction Status Impact Report The Organic Disposal Reduction Status Impact Report requires operator to prepare and submit a report after 180 days of the effective date of this regulation. YCCL recommends that this report be due two-years after the implementation of the regulation to allow adequate time for collection of supporting data the is required for the analysis under section 21695(c) (13 items listed).</p>	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations.</p> <p>The SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order properly implement any changes or modifications to the landfill in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p> <p>In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills. If there will be no changes to a particular item, then a statement to that effect would be adequate.</p>
3101	Young, B., Sacramento Food Bank & Family Services	<p>As we highlighted in our last round of comments, the state and local jurisdictions will only be able to achieve this goal with an appropriate investment in the capacity and physical infrastructure of emergency food recovery organizations to increase the volume of food they receive, store and distribute. To that end, we are grateful to see the January 18 draft regulations include language in Article 10 about jurisdictions being able to fund these activities through avenues such as franchise fees and local assessments, as well as the ability for generators to self-haul and enter into contracts directly with food recovery organizations. We are in strong support of these funding mechanisms, which must be included in the final language, but urge that the capacity planning process in Article 11 be expanded to formally include stakeholders such as emergency food groups, to properly inform jurisdictions about gaps & needs.</p>	<p>Comment is in support of the regulations and suggests the inclusion of stakeholders in the capacity planning process. The regulations do require consultation with food recovery services and organizations as part of that process.</p>

Comment Number	Received From	Question/Comment	Response(s)
3102	Young, B., Sacramento Food Bank & Family Services	Similarly, we thank CalRecycle for the language in Article 9 that reflects the need for food recovery organizations to be able to refuse food donations. Food recovery organizations operate on extremely thin budgets, and often experience staff turnover, funding shocks or other disruptions that may prevent them from participating in an arrangement even if they were otherwise favorable. The final state and local regulations recognize as fundamental to this work that food recovery organizations' participation is voluntary, given the existing strains on the budgets of under-resourced non-profits and largely volunteer labor force engaged in food recovery.	Comment noted. Commenter is in support of the proposed regulations.
3103	Young, B., Sacramento Food Bank & Family Services	Meeting the goals in SB 1383 will create significant burdens on food recovery organizations, as the pressure to take more food will occur with tightening mandatory commercial organics recycling costs requirements from AB 1826 (Chesbro, 2014) that will raise costs for food banks. We urge inclusion, perhaps in Article 13, of an impact assessment on food recovery organizations to understand this issue and provide information to jurisdictions and other stakeholders about how to respond to any challenges raised. For example, food banks will be wondering: Is the additional food recovery estimated from this equal to, less than, or more than the additional cost on food banks to meet the mandated requirements?	The regulations specify in Section 18990.2 that nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible generator. Food recovery organizations and services are not mandated to recover food nor are they mandated to establish contracts or written agreements with commercial edible food generators pursuant to Section 18991.3(b). If the costs to recover additional food are too great, then food recovery organizations and services do not have to recover additional food. Adding a requirement to Article 13 requiring jurisdictions to perform an impact assessment on food recovery organizations and services would be overly burdensome for jurisdictions as they are already required to assess edible food recovery capacity and increase capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs.
3104	Young, B., Sacramento Food Bank & Family Services	We further urge CalRecycle to encourage jurisdictions to develop funding mechanisms that offset higher mandatory commercial organics recycling incurred that emerge in new partnerships due to recovery activities necessary to meet the 20% diversion goal. These include many possibilities, such as: Working with generators that food banks currently do not receive donations that would require de-packaging due to organizational nutrition policies, Working with donors whose offerings have a lower yield of edible food and an accordingly higher percentage of food loss during the recovery process. Funding mechanisms should recognize that 1) a large share of the costs associated with increasing the capacity for food rescue will be for labor and physical infrastructure costs associated with coordinating the additional food, 2). recovery activities pursuant to SB 1383's goal will nearly always augment work already being done with a mixture of existing and new capacity (staff, cold storage, vehicles, fuel and other fixed costs), and therefore funding should not be restricted to incremental pounds of food.	CalRecycle recognizes that there is a lack of sustainable funding for food recovery infrastructure and capacity in California. To address this, CalRecycle included language in Article 10, Section 18991.1 stating that a jurisdiction may fund the actions taken to comply with the jurisdiction edible food recovery program requirements through franchise fees, local assessments, or other funding mechanisms. This language was included to encourage jurisdictions to establish a sustainable funding source to help cover their program implementation costs. If a jurisdiction decides to fund their edible food recovery program through franchise fees, local assessments, or other funding mechanisms, then it is at the discretion of the jurisdiction, not CalRecycle, to determine how the funding will be dispersed. CalRecycle would also like to clarify that nothing in SB 1383's regulations requires a food recovery organization or service to establish a contract or written agreement with a commercial edible food generator. A food recovery organization or service may wish to consider any costs associated with recovering additional food when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator. CalRecycle would also like to note that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.
3105	Young, B., Sacramento Food Bank & Family Services	CalRecycle must define and delineate between 'edible' and 'recoverable' food, in particular to define the latter term and having the diversion mandate key off of recoverable foods - not edible. Making these changes in the definitions provides essential protection and clarity rather than simply listing each food recovery organization's priority foods and nutrition policies in the local 'food donation guides'	In an early draft of the proposed regulations edible food was defined as: "Edible food" means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, "edible food" is not solid waste if it is recovered and not discarded."

Comment Number	Received From	Question/Comment	Response(s)
		<p>as CalRecycle envisions in Article 4. This is a critical distinction - many times edible foods require packing, processing, or other additional work to enable their donation. Who will pay for that? CalRecycle should consider using the nationally established definition of food eligible for donation by the Bill Emerson Good Samaritan Food Donation Act & mirrored in AB 1219 (Eggman, 2017). The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. We wish to be on record that if this language is not adopted, not only will there be inconsistency with existing practice, but also some food would require additional labeling to allow recovery and donation, placing an additional burden on food banks to do so. This could significantly raise costs to achieve the diversion goal.</p>	<p>Several commenters made the argument that this definition was too restrictive, because it described "recoverable food" not "edible food." Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters' concerns about the definition of "edible food" being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following:</p> <p>"Edible food" means food intended for human consumption.</p> <p>(A) For the purposes of this chapter, "edible food" is not solid waste if it is recovered and not discarded.</p> <p>(B) 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.</p> <p>Although the final definition of "edible food" is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities and eliminated the need to provide a separate definition for "recoverable food."</p>
3106	Young, B., Sacramento Food Bank & Family Services	<p>In addition, it is imperative that CalRecycle and jurisdictions exempt the 'nonprofit charitable organizations' (food banks and their non-profit partners) from fees and penalties related to their own waste incurred during compliance with SB 1383 as long as they are accepting donations with the intention to distribute the food for consumption. As the stream of donations increases, there may be more instances where food is not handled safely or as represented and if the non-profit charitable organizations are to help get this food out, it is important that they not be penalized for attempting to solve the overall problem.</p>	<p>Nothing in SB 1383's regulations requires a food recovery organization or a food recovery service to accept edible food. Section 18990.2 of the regulations states, "(d) Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator." If a food recovery organization or service cannot safely collect and distribute food because it is at maximum capacity, then it should not be collecting any more food. In addition, nothing in SB 1383's regulations requires food recovery organizations and food recovery services to enter into contracts or written agreements with commercial edible food generators. Food recovery organizations and food recovery services can choose not to participate. If a commercial edible food generator approaches a food recovery organization or a food recovery service requesting a contract or written agreement, then it is at the discretion of the food recovery organization or the food recovery service to determine if they want to enter into such contract or agreement. A food recovery service or organization may wish to consider any costs associated with recovering additional food when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator, thus subjecting them to a potential increase in costs. Please note, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing specifications in their contracts or written agreements with commercial edible food generators.</p>
3107	Young, B., Sacramento Food Bank & Family Services	<p>Below we ask for a significant overhaul of the role of food recovery organizations in the data reporting regime; reporting requirements must be re-centered on the generators that must comply with the diversion goal. In broader consultation, we have learned that as written the requirements are simply unworkable as they would violate donor confidentiality. Instead, as food recovery groups have this information, jurisdictions should make requests - solely for pounds out of simplicity and consistency with generator donation metrics - and the food recovery group(s) can make as needed should there be cause to verify a generator report.</p>	<p>SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p>

Comment Number	Received From	Question/Comment	Response(s)
3108	Young, B., Sacramento Food Bank & Family Services	<p>Finally, we again caution CalRecycle on the potential for SB 1383 regulations to create unintended consequences that could threaten the ability of food recovery organizations-charity non-profits that feed people experiencing hunger - to access sufficient food and nutrition resources. In both definitions of 'Food Recovery' and 'Food Recovery Service' the draft regulations recognize that there could be activities conducted with payment and for-profit entities. We ask that CalRecycle emphasize the EPA's Food Recovery Hierarchy pyramid, which highlights "Feed Hungry People-Donate extra food to food banks, soup kitchens, and shelters" as the primary strategy after "Source Reduction." Food recovery organizations already occupy niche spaces and rely on the generosity of donors to access a sufficient supply of food. Recovery groups already compete with several secondary markets, from processors to pig farmers, and there are significant concerns with further pressures from revenue-based recovery organizations as the state achieves the goal to reduce the supply of these foods. Therefore we encourage CalRecycle to continue to find ways to minimize the regulatory burden and maximize generator agreement opportunities.</p>	<p>Several commenters explained that food recovery organizations occupy niche spaces and often rely on the generosity of food donors to access a sufficient supply of food. In addition, some food recovery groups compete with several secondary markets, from processors to pig farmers, and there are significant concerns with further pressures from revenue-based recovery organizations as the state achieves the goal to reduce the supply of these foods.</p> <p>CalRecycle would like to clarify that nothing in SB 1383's statute specifies that recovered edible food should first be intended for food banks, soup kitchens, and shelters. The statutory goal is that no less than 20% of currently disposed edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.</p>
3109	Young, B., Sacramento Food Bank & Family Services	<p>Article 1 (a) Definitions {18}, the definition of edible food: We reiterate our request to strike "unserved and unsold" to prevent gaming of the system - not serving food so that it can be dumped instead of donated. We add that the Conference For Food Protection Food Donation guidelines recommend that only unserved food be recovered for donation, even though it is allowable under federal law. Prepared foods in particular that have been served or sold, which customers have access to are not usually donated and would require strict food safety controls. The "back of house" trays that have not been touched are the standard for prepared donations. There are many food safety concerns if donations came from a hot bar, salad bar, or customer return. Nevertheless, we continue to ask the Department & jurisdictions. to be mindful that food could potentially be labeled 'served' in order to avoid compliance with SB 1383.</p>	<p>In an early draft of the proposed regulations edible food was defined as: "Edible food" means unsold or unserved food that is fit for human consumption, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions. For the purposes of these regulations, "edible food" is not solid waste if it is recovered and not discarded."</p> <p>Several commenters made the argument that this definition was too restrictive, because it described "recoverable food" not "edible food." Commenters also raised concerns that keeping this definition would make the edible food baseline much smaller than it would be with a broader definition, and would potentially discourage donations of foods that were still safe for human consumption. To address commenters' concerns about the definition of "edible food" being too restrictive, CalRecycle revised the definition. In the final regulations, edible food is defined as the following: "Edible food" means food intended for human consumption. (A) For the purposes of this chapter, "edible food" is not solid waste if it is recovered and not discarded. (B) 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. Although the final definition of "edible food" is broader than the previous draft definitions, the final definition includes language to clarify that all edible food that is recovered under SB 1383 must still meet the food safety requirements of the California Retail Food Code. This provision provides an objective standard familiar to regulated entities.</p>
3110	Young, B., Sacramento Food Bank & Family Services	<p>Article 1 {a) Definitions, a new definition of recoverable food should be inserted that: We again ask CalRecycle to restore the language used in the June "Concept" document that reflected our prior input that food recovery organizations like food banks are able to follow internal, established "standards and requirements for</p>	<p>CalRecycle would first like to clarify that SB 1383's statute requires CalRecycle to adopt regulations that include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed is recovered for human consumption by 2025. The statute does not state that 20% of healthy or nutritious food be recovered. As a result, SB 1383's regulations do not include requirements that only certain types of food be recovered.</p>

Comment Number	Received From	Question/Comment	Response(s)
		acceptance related to nutrition or quality when recovered by those organizations. Nothing in this definition shall preclude such organizations from developing more stringent standards "	CalRecycle does however, recognize that a core value of many food recovery organizations and food recovery services is to reduce food insecurity in their communities by rescuing and distributing healthy and nutritious food to help feed people in need. CalRecycle also recognizes that many food recovery organizations and food recovery services have nutrition standards for the food they are willing to accept. To address this, Section 18990.2 Edible Food Recovery Standards and Policies subsection (d) specifies that nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from refusing to accept edible food from a commercial edible food generator. Therefore, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from following their own internal standards and requirements for acceptance related to nutrition or quality of the food when it is recovered.
3111	Young, B., Sacramento Food Bank & Family Services	Article 1 (a) Definitions (24), the definition of food recovery: We are in strong support of this language. We suggest to add that the definition conform to the definition in (25) of a food recovery organization. " ... collect and distribute for human consumption which otherwise be disposed, where recovered food is first intended for no-cost charitable distribution to communities in need."	Nothing in SB 1383's statute specifies that recovered edible food should first be intended for no-cost charitable distribution. The statutory goal is that no less than 20% of currently disposed edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.
3112	Young, B., Sacramento Food Bank & Family Services	Article 1 (a) Definitions (25), the definition of food recovery organization, and (26), the definition of food recovery service: As we highlighted in our suggestions on the previous page, we remind CalRecycle of the possible unintended consequences of not explicitly stating that recovered food should be distributed for free to the public for consumption, and request this revision. We offer the additional context that if food generators want to take the federal tax deduction for donated food, it must be provided for free to the ill, needy, or children (See IRS code).	Nothing in SB 1383's statute specifies that recovered edible food should first be provided for free to the public for consumption. The statutory goal is that no less than 20% of currently disposed edible food be recovered for human consumption by 2025. SB 1383's statute also does not specify that non-profit food recovery organizations should be prioritized over for-profit food recovery entities. Both non-profit and for-profit food recovery organizations and food recovery services are needed to help California achieve the 20% edible food recovery goal established by SB 1383.
3113	Young, B., Sacramento Food Bank & Family Services	Article 1 Definition (76): 'Under no circumstances shall a non-profit charitable organization be considered a 'wholesale food market'.	Several commenters were concerned that a non-profit food recovery organization could potentially be considered a wholesale food vendor and therefore be subject to SB 1383's commercial edible food generator requirements. Language was added to the definition of "commercial edible food generator" to specify that for the purposes of this chapter, food recovery organizations and food recovery services are not commercial edible food generators. Therefore, a non-profit charitable food recovery organization cannot also be considered a wholesale food vendor and is not subject to the commercial edible food generator requirements of SB 1383.
3114	Young, B., Sacramento Food Bank & Family Services	Article 4 (a)(l)(E): Please strike 'Hours of operation.' These should not be required on a website since under no circumstances should food be dropped at a food recovery organization without a prearranged agreement or MOU.	CalRecycle removed "hours of operation" from Section 18985.2 in response to this comment and several other comments raising the same concern. The commenter is concerned that including "hours of operation" could lead to commercial edible food generators dropping off food at a food recovery organization without having permission to do so. This change was necessary to ensure that this activity does not occur, and to help protect food recovery organizations from receiving food that they were not expecting to receive.

Comment Number	Received From	Question/Comment	Response(s)
3115	Young, B., Sacramento Food Bank & Family Services	Article 4 (b)(1UD): Add this line 'Information that makes it clear they must have an agreement or MOU with a food recovery organization prior to any deliveries or drop-offs.'	<p>CalRecycle provided an explanation in the FSOR in response to this comment. The explanation describes how the requirement for commercial edible food generators to have a contract or written agreement with a food recovery organization or a food recovery service, provides greater protections for food recovery organizations and food recovery services than the previous draft language.</p> <p>For context, the commenter is concerned that commercial edible food generators could self-haul edible food to a food recovery organization that they do not have a contract or written agreement with for food recovery. Donation dumping, and unexpected deliveries and drop offs of food donations are serious issues that can create significant hardships for food recovery organizations and food recovery services. Revisions were made to the regulatory text to address this concern. The FSOR clarifies that commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery where the contract specifies that the generator is permitted to self-haul edible food during pre-established delivery or drop off times. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off times specified in the contract or written agreement.</p> <p>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 their 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 exact self-haul provisions to include in their contracts or written agreements.</p> <p>CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. The model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and food recovery services from donation dumping and unexpected donations. The model agreement is a template that is intended to be customized based on the needs of food recovery organizations, food recovery services, and commercial edible food generators.</p>
3116	Young, B., Sacramento Food Bank & Family Services	<p>(a) A jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a generator or food recovery organization to recover edible food that could be recovered for human consumption.</p> <p>o With the recent passage of AB 2178 (Limon. 2018), local non-profit charities may be required to register and pay fees to their local Environmental Health Departments in order to continue operating. With that in mind. CalRecycle and jurisdiction should coordinate with EH D's about the new food waste diversion goals that local food recovery organizations will be striving to meet. Perhaps this could be included in Article 13; we are open but ask for a response on how to ensure coordination and prevent duplicate regulation.</p>	<p>A change to the regulatory text was not necessary for the following reasons. Throughout the rulemaking process CalRecycle has worked with local environmental health departments, the Public Health Alliance of Southern California, and the California Conference of Directors of Environmental Health to help educate environmental health officials about the food recovery goal of SB 1383 and the law's food recovery regulations. CalRecycle is actively engaging with these stakeholders on an ongoing basis. In addition, the commenter asked CalRecycle to add requirements to Article 13, but due to the lack of clarity in the comment itself, it is unclear exactly what the commenter would like added to Article 13. For these reasons no changes to the regulatory text were made.</p>

Comment Number	Received From	Question/Comment	Response(s)
3117	Young, B., Sacramento Food Bank & Family Services	<p>(d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator. In fact, all generators must have agreements in place with food recovery organizations before deliveries or drop-offs and even in that context, any specific delivery can be refused because of quality, condition, lack of space, quality, type, condition, or any other reason.</p> <p>o We appreciate CalRecycle's addition of this language, and again insist that it remain included and broadly interpreted by jurisdictions to give recovery organizations the flexibility they need given the diversity of situations that arise.</p> <p>IDENTICAL 3089</p>	<p>A change to the regulatory text was not necessary because Section 18990.2. (d), already specifies that nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept edible food from a generator. It is not necessary to add language about the reasons why a food recovery organization or service can refuse edible food. The language in section 18990.2. (d) is sufficient to give food recovery organizations and services the authority they seek to refuse edible food.</p> <p>The FSOR also clarifies that commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery where the contract specifies that the generator is permitted to self-haul edible food during pre-established delivery or drop off times. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off times specified in the contract or written agreement.</p> <p>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 their 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 exact self-haul provisions to include in their contracts or written agreements.</p> <p>CalRecycle developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, and commercial edible food generators. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and food recovery services from donation dumping and unexpected donations. The model agreement is a template that is intended to be customized based on the needs of food recovery organizations, food recovery services, and commercial edible food generators.</p>
3118	Young, B., Sacramento Food Bank & Family Services	<p>(b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms. Under no circumstances should jurisdictions charge fees or assessments to food banks or other non-profit food recovery organizations.</p> <p>o This language is essential in recognizing the financial and human resource burden that food recovery organizations will face in working to meet the 20% diversion goal, and we are in strong support.</p>	<p>CalRecycle will not identify a specific entity that jurisdictions cannot charge fees to, as this raises an authority issue. However, CalRecycle would like to clarify that the language in Section 18991.1 (b) was included in the regulations to encourage each jurisdiction to establish a sustainable funding source to help fund its food recovery program and food recovery organizations and services operating in the jurisdiction.</p>
3119	Young, B., Sacramento Food Bank & Family Services	<p>Regarding (2), With the passage of AB 2178 (Limon. 2018), local Environmental Health Departments will be required to keep records of what organizations food banks partner with, and documentation directly from non-food bank affiliated non-profit organizations that are serving ready-to-eat food. In an effort to minimize the duplication of record-keeping efforts, we request that local jurisdictions</p>	<p>Regarding the comment about AB 2178, it was unclear what the commenter's concern was regarding duplication of recordkeeping requirements. The commenter did not provide additional information to identify if any of the recordkeeping requirements in SB 1383 are the same as the recordkeeping requirements of AB 2178. "Duplication of recordkeeping efforts" is very vague and additional context needed to be provided before any changes to the regulations could be considered.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>communicate with EH D's to obtain records of the relevant information to avoid duplicate efforts with food banks.</p> <p>Article 10. Section 18991.2{2}: A list of edible food recovery organizations in the jurisdiction and their edible food recovery capacity</p> <p>Add: 'and how to contact them to put in place a contract or agreement for food recovery'</p>	<p>Regarding the comment about the list of food recovery organizations, Section 18985.2 (a)(1) requires jurisdictions to develop a list of food recovery organizations and food recovery services operating within the jurisdiction and maintain the list on the jurisdiction's website. The list must be updated annually. The list must include, at a minimum, the following information about each food recovery organization and each food recovery service that it includes:</p> <p>(A) Name and physical address.</p> <p>(B) Contact information.</p> <p>(C) Collection service area.</p> <p>(D) An indication of types of food the food recovery service or organization can accept for food recovery.</p> <p>The regulations already include the requirement that the list include the contact information for each food recovery organization and service that is included on the list. Adding the commenter's proposed requirement would be redundant, because it is already required that the contact information is listed for each food recovery organization and food recovery service.</p> <p>However, if a jurisdiction is inclined to include 'information on how to contact the food recovery organization to establish contract or written agreement for food recovery' with their list, then they may do so. As stated in Article 9, Section 18990.1 (a), nothing in this chapter is intended to limit the authority of a jurisdiction to adopt standards that are more stringent than the requirements of this chapter, except as provided in Subdivision (b) of Section 18990.1.</p>
3120	Young, B., Sacramento Food Bank & Family Services	<p>{b) (1) Contracting with food recovery services or organizations that will collect their edible food for food recovery, and {2) Self-hauling edible food to a food recovery organization that will accept the edible food for food recovery and with whom the generator has an agreement or MOU.</p> <p>(b)(l) & (2) are critical, and we strongly support their inclusion with the modification of needing an agreement. It is our interpretation that this is permissive of generators and recovery organizations agreeing to contractual terms that would enable recovery groups to charge for their recovery costs - though that would have to be negotiated between the parties. If this is not correct, we urge in the strongest possible terms that language be included that clarify this.</p>	<p>The commenter is concerned that commercial edible food generators could self-haul edible food to a food recovery organization that they do not have a contract or written agreement with for food recovery. Donation dumping, and unexpected food donations are serious issues that can create significant hardships for food recovery organizations and food recovery services. Revisions were made to the regulatory text to address this concern.</p> <p>CalRecycle first revised the regulatory text following the 45-day formal comment period in response to this comment. Specifically, language was added to Section 18991.3 that stated, "food that is self-hauled pursuant to this section shall be done with the consent of the food recovery organization." However, in the subsequent October 2019 draft of regulatory text, this language was removed because it was no longer necessary due to other revisions that were made.</p> <p>Specifically, new revisions were made to Section 18991.3 Commercial Edible Food Generators. The revision added the requirement that commercial edible food generators must comply with the requirements of Section 18991.3 through a contract or written agreement with any or all of the following: (1) Food recovery organizations or services that will collect their edible food for food recovery. (2) Food recovery organizations that will accept the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery. Therefore, commercial edible food generators can only self-haul edible food to a food recovery organization that they have established a contract or written agreement with for food recovery. It is at the discretion of the food recovery organization and the commercial edible food generator to include provisions in their contracts or written agreements regarding what the outcome will be if a commercial edible food generator self-hauls edible food outside the designated delivery or drop off 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</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>the contract or written agreement, the commercial edible food generator could potentially be at risk of their contract being terminated by the food recovery organization. Also, nothing in SB 1383's regulations prohibits a food recovery organization or a food recovery service from including cost-sharing language in their contracts or written agreements with commercial edible food generators. For further clarification please refer to the FSOR.</p> <p>CalRecycle would also like to note that the Department developed a model food recovery agreement that can be customized and used by food recovery organizations, food recovery services, commercial edible food generators, and jurisdictions. This model agreement does include a section for self-hauled edible food, which also includes designated delivery and drop off days and times to establish as well as language to protect food recovery organizations and services from donation dumping and unexpected donations. We again would like to reiterate that this model agreement is only a template and is intended to be customized based on the needs of food recovery groups and commercial edible food generators.</p>
3121	Young, B., Sacramento Food Bank & Family Services	<p>(a) A commercial edible food generator subject to the requirements in this article shall keep a record that includes the following:</p> <ul style="list-style-type: none"> o {3} An edible food generator that complies with the requirements of this article through contracting with a food recovery service or organization as allowed in Section 10.3 shall keep a record of the following for each food recovery organization or service that the edible food generator contracts with: <ul style="list-style-type: none"> • (A) The name, address and contact information of the service or organization. • {B} The types of food that will be collected by or transported to the service or organization. • {C} The established frequency that food will be collected or transported, with the exception of 'on call' or 'one-time' donors. • We request to modify this line. Many donors are on regular schedules, and this regulation will often be consistent with and reinforce those practices. Yet, for infrequent donors, donations can vary greatly based on factors such as inventory, season, weather conditions and consumer demand. Likewise, food recovery organizations are sometimes asked to be "on call," meaning they only pick up when asked. Therefore it can be difficult in some cases to establish a regular frequency, and it is not practical or helpful to track this metric. • (D) The quantity of food collected or transported to a service or organization for food recovery. <ul style="list-style-type: none"> • 1. Quantity shall be measured in pounds recovered per month. • 2. An Edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered. <p>We request to strike this line, in order to maintain a single metric - pounds - to avoid the confusion of multiple measures and creating the need to translate/reconcile across different metrics.</p>	<p>A change to the regulatory text was not necessary because it is anticipated that the majority of commercial edible food generators will not be infrequent donors. They will have edible food available for food recovery on a regular basis. Therefore, some kind of frequency for collection or self-haul must be established and documented. CalRecycle would like to clarify that nothing prohibits a food recovery organization and commercial edible food generator from establishing more than one frequency to account for changes in the amount of food available. For example, a local education agency could have one established frequency for collections during the school years, and a different established frequency during the summer months when there is less food to recover. Maintaining a record of the established a frequency that edible food is collected or self-hauled is also important, because this information will help jurisdictions determine if a commercial edible food generator is recovering the maximum amount of edible food that would otherwise be disposed.</p> <p>With regard to the comment about using pounds as the only metric, CalRecycle agrees with this comment and removed the following language from the regulatory text: "2. An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered." By removing this language, all commercial edible food generators are now required to track pounds of food recovered. CalRecycle agrees with the commenter that this revision will eliminate confusion of multiple metrics, and also make commercial edible food generator recordkeeping more consistent as they will all be required to track pounds.</p>
3122	Young, B., Sacramento Food	a) A food recovery organization or service that collects or receives 12 6 tons or more of edible food from edible food generators per year shall maintain a record that includes all of the following. Jurisdictions may request to review & audit food	The language referred to in the comment regarding tons was deleted during the rulemaking process.

Comment Number	Received From	Question/Comment	Response(s)
	Bank & Family Services	recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported. In further consultation with member food banks, 6 tons is a low threshold to conform to the small capacity groups the Department seeks to prevent over-regulation. In addition, there are significant restrictions on donation data that would make compliance with the regulations, as written, impossible for food banks and member agencies.	
3123	Young, B., Sacramento Food Bank & Family Services	(4) The total number of meals served per month if applicable. As in 18991.4, we request the simplicity and consistency of pounds. The metric of meals is based on a conversion from pounds, and represents an estimated average. We recommend tracking pounds only, as it will be more consistent and simpler to track across many organizations. It would be burdensome on existing staff to have to report these numbers on a regular basis, and would introduce confusion in matching donated vs. transported vs. recovered meals. Finally, meals can be calculated from pounds and is simply unnecessary to report. IDENTICAL 3095	CalRecycle agrees with this comment and removed the following language from the regulatory text: "An edible food generator may use an alternative metric provided by the food recovery service or organization to measure the quantity of food recovered." By removing this language, all commercial edible food generators will be required to track the pounds of food recovered. This revision will eliminate confusion of multiple metrics, and also make commercial edible food generator recordkeeping more consistent as they will all be required to track pounds.
3124	Young, B., Sacramento Food Bank & Family Services	Section 18992.2 Edible food recovery Capacity In (a), we strongly support the capacity planning process as outlined but urge that counties coordinate not just with cities and regional agencies but also with "all relevant edible food recovery stakeholders, including all of but not limited to food recovery organizations, generators and haulers." Currently, such stakeholder involvement would occur only after the process outlined in (b)(2), suggesting a planning scenario that would exclude the organizations with the expertise necessary for an effective planning process as outlined in (a) & (b).	Section 18992.2 states that in complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. It is inherent in the requirements of Section 18992.2 (a)(2)-(4) that counties, in coordination with jurisdictions and regional agencies located within the county, will have to consult with food recovery organizations, food recovery services, and other key food recovery stakeholders to help assess edible food recovery capacity. In addition, nothing in SB 1383's regulations would prohibit a county, jurisdiction, or regional agency from consulting with haulers.
3125	Young, B., Sacramento Food Bank & Family Services	In (b), we strongly support and urge that this language remain in the final regulations. Capacity is essential to achieving the state's goal, and jurisdictions must include implementation schedules that prioritize how to provide revenues that can support the real costs necessary to divert additional food in a food safe manner - the trucking, cold storage, fuel, staffing and administrative costs that food banks and other emergency food organizations struggle to provide already. If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction within that county that lacks capacity shall: A small but important typographical change	Some commenters noted that there was a minor grammar error in Section 18992.2 Edible Food Recovery Capacity (b). A minor grammar edit was made to the regulatory text in response to this comment. This edit was necessary to ensure that the requirement is interpreted accurately. The minor grammar edit that was made can be found below. (b) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in (a)(4), then each jurisdiction within that county that lacks capacity shall:
3126	Young, B., Sacramento Food Bank & Family Services	Article 13 Section 18994.2. Jurisdiction Annual Reporting (h) A jurisdiction shall report the following regarding its implementation of the edible food recovery requirements of Article 10. o (1) The number of commercial edible food generators located within the jurisdiction. o (2) The number of food recovery services and organizations located and operating within the jurisdiction that collect or receive more than 12 e tons of food per year. • (A) A Jurisdiction shall require food recovery organizations and services that are located within the jurisdiction and collect or receive 12 i-tons or more of edible food	The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.

Comment Number	Received From	Question/Comment	Response(s)
		<p>per year to report the amount of edible food recovered by the service or organization in the previous calendar year to the jurisdiction.</p> <ul style="list-style-type: none"> • As with Article 10 Section 18991.5, we recommend doubling the 6 ton threshold. • We also reiterate our position in Article 10 18991.5: 18994.2 must be struck as written, and replaced with language that "jurisdictions may request to review & audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported .. " • Food recovery organizations already track and could make records available upon request by the jurisdiction or State (in order for the jurisdiction or State to reconcile with food generator reporting as part of an audit or compliance review). Moreover, for many food recovery groups this information is tracked but proprietary under existing agreements with generators, which this requirement could disrupt and have the unintended consequence to prevent donations. • We urge that the reporting requirement occur solely with the food generator, not with the food recovery organization, for consistency and ease of regulatory oversight. If reporting flows from the food recovery organization up to the local jurisdiction, then up to the State, reconciliation with the food generators' output will be very difficult. • Food generator reporting would be provided to the State, local jurisdictions and food recovery organizations. 	<p>To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold from the regulatory text. The final regulations 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.</p> <p>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 the 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% edible food recovery goal. 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.</p> <p>Regarding the comment that "jurisdictions may request to review & audit food recovery donation records if there is need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported." There are no requirements in the regulations that mandate the reporting of such information. If a public agency does decide to retain copies of commercial edible food generator records or food recovery organization and food recovery service records for enforcement purposes or audit purposes, they would be subject to the Public Records Act as well as any applicable provisions exempting the disclosure of proprietary or trade-secret information.</p> <p>CalRecycle would also like to clarify that SB 1383's reporting requirements do not violate donor confidentiality. There is no requirement in SB 1383's regulations for food recovery organizations or food recovery services to report donor names. They are only required to report (to the jurisdiction that they are located in) the total pounds collected in the previous calendar year from the commercial edible food generators that they contract with or have written agreements with pursuant to Section 18991.3 (b). Reporting the total pounds collected is critical for measuring progress and to help jurisdictions and CalRecycle identify if more capacity building needs to occur.</p> <p>Regarding the comment requesting that the reporting requirement occur solely with the food generator and not with food recovery organizations and services. It is not prudent to require each individual commercial edible food generator to report information to the jurisdiction. Such a revision would require jurisdictions to review and aggregate data from thousands of commercial edible food generators rather than a much smaller number of food recovery organizations and food recovery services. For example, one food bank could work with over a hundred commercial edible food generators. It is far more efficient and feasible for a jurisdiction to review one report from the food bank rather than 100 individual reports from generators that all work with the same food bank.</p>
3127	Young, B., Sacramento Food Bank & Family Services	Article 14, Section 18995.1 Jurisdiction Inspection and Enforcement Requirements (2): Unclear what food recovery organizations would be complying with in this section. Please provide a written answer and we will offer further comment.	To clarify, any food recovery organization or food recovery service that has a contract or written agreement with one or more commercial edible food generators pursuant to Section 18991.3 (b) is required to maintain records and report information to the jurisdiction. Therefore, any food recovery organization or service that has a contract or written agreement pursuant to Section

Comment Number	Received From	Question/Comment	Response(s)
			18991.3 (b) is also subject to inspection by the jurisdiction to verify that they are in compliance with the SB 1383 recordkeeping and reporting requirements that they are subject to.
3128	Young, B., Sacramento Food Bank & Family Services	Article 16. Section 18997, Table 1 (last row): Non-profit food recovery organizations should not be penalized if they are keeping records in good faith.	<p>The only recordkeeping requirements for food recovery services and organizations are established in Section 18991.5. This section establishes minimum recordkeeping requirements for food recovery services and organizations that elect to establish a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b). A food recovery service or organization that does not have a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b) is not subject to the recordkeeping requirements. A food recovery service or organization may wish to consider any costs associated with recordkeeping when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator, thus subjecting them to the recordkeeping requirements of the regulations.</p> <p>Furthermore, the timeline for issuing penalties provides ample time for a food recovery organization or service to achieve compliance with the recordkeeping requirements. An entity may have up to seven months to come into compliance with a violation such as recordkeeping. CalRecycle believes this provides sufficient time for an entity acting in good faith to come into compliance with the requirements.</p>
3465	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	While the City supports the goals of SB 1383, the City will need more flexibility in the regulations and the ability to prioritize funding for program development and capacity building. In the current proposed text, a tremendous amount of effort is placed on Reporting and Enforcement (Sections 13 and 14, respectively), which constrains funds and resources to enforcement, rather than allow development of new organics initiatives and infrastructure. The City recommends that CalRecycle reduce the burden of enforcement and record keeping so that the City may prioritize program development and capacity building. Furthermore, the proposed requirements and penalties imposed on generators, including single and multifamily households, are broad and punitive. The civil penalty structure would disproportionately affect low-income residents and small businesses.	<p>A change to the regulatory text is not necessary. The reporting and recordkeeping requirements are the minimum amount needed to allow CalRecycle to ensure a jurisdiction's compliance with the Chapter. The recordkeeping requirements also assist a jurisdiction in verifying and tracking their own progress and if they are complying with the law.</p> <p>The Chapter allows a jurisdiction to fulfill its oversight role by adopting their own enforceable ordinances that are consistent with the requirements of this chapter and may incorporate their own factors to use when determining a penalty amount, such as, but not limited to, low income residents and/or small businesses ability to pay. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. The penalty amounts in Section 18997.2 and per day violations are eliminated.</p>
3466	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	On a related note, regarding cannabis waste, although considered organic waste but not explicitly listed in definition of these draft regulations, the City requests the ability for individual jurisdictions to manage this waste as special waste rather than have cannabis waste fall under these regulations and be regulated to be diverted from disposal.	Comment noted. Jurisdictions are allowed to have local ordinances that go beyond the scope of the proposed regulations and may address this matter as they see fit. Note that other state agencies specifically regulate how cannabis waste is managed, such as CDFA and Bureau of Cannabis Control and local jurisdictions should be aware of those requirements.
3467	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Landfill Disposal and Recovery</p> <p>a) Capacity for organics processing continues to be a major challenge for reducing landfill disposal of organic waste. LASAN appreciates that CalRecycle has included small scale composting and community composting as opportunities to reduce landfill disposal. However, LASAN requests that CalRecycle also include efforts to prevent food waste and promote source reduction.</p>	<p>Source reduction continues to be one of the primary fundamentals in CalRecycle's waste reduction hierarchy as defined in Section 40196. To directly support SB 1383's Food Recovery requirement, Section 18991.1 specifies the requirements for a jurisdiction's edible food recovery program. Section 18983.1(d) is to specify that edible food recovered for human consumption is an activity that reduces landfill disposal.</p> <p>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 effort to keep organics waste out of landfills and reduce greenhouse gas emissions and is</p>

Comment Number	Received From	Question/Comment	Response(s)
			therefore considered a recovery activity for the purposes of this regulation. However, per SB 1383, requiring “efforts to prevent food waste and promote source reduction” is outside the purview of these regulations since the statutory language is restricted to recovering edible food that would be otherwise disposed as opposed to being directed at source reduction.
3468	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Landfill Disposal and Recovery b) Currently, dehydrators and liquefiers are not included as an acceptable alternative to landfill disposal. LASAN requests that CalRecycle continue to study the evolving dehydrator and liquefier technologies and create guidelines for best practices of utilizing its byproducts to be an acceptable alternative to landfill disposal.	CalRecycle understands the need to consider all technologies that can help the state achieve both its organic waste recycling goals and greenhouse gas emission reduction goals. For technologies that currently do not have enough supporting data to verify that they can reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO ₂ e per short ton organic waste processed, Section 18983.2 provides a pathway for determining if a technology, such as dehydrators and liquefiers, can be deemed to constitute a reduction in landfill disposal for organic wastes. These technologies would need to meet the standards in that section to qualify.
3469	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Landfill Disposal and Recovery c) The proposed regulation ((Section 18983.2 (a)) also require that technologies that are not expressly identified in the regulations undergo a verification process. We appreciate the addition of the emissions reduction for compost for additional reference. However, it is not clear why a technology, if shown to reduce landfill disposal and thus reduce methane emissions as compared to landfilling, will also need to meet or exceed the methane reduction calculations for compost. LASAN recommends that new technologies be compared to landfilling to encourage innovation in the processing of organic waste.	Several commenters suggested using avoided landfill emissions as the benchmark in the determination of processes or technologies that constitute a reduction in landfill disposal. Although this proposal might increase diversion of organics from landfills, it would not achieve the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 or the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO ₂ e per short ton organic waste was set to ensure emission reductions for any new process or technology are comparable to the emission reductions necessary to achieve the strategy’s emission reduction goal of 4 MMTCO ₂ e for this sector.
3470	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Landfill Disposal and Recovery LASAN recommends that CalRecycle make available to local jurisdictions the adopted tools and methodologies that enable the quantification of the Short Lived Climate Pollutant (SCLP) reductions achieved from diverting each ton of organics (e.g., food waste, grass clippings, tree trimming, and mixed organics) from landfill disposal to other management options (e.g., composting, and AD). Such tools will enable jurisdictions to quantify the environmental benefits, including GHG emission reductions associated with their respective solid waste management program. Such tools and methodologies should be robust and applicable to different management options, various distances to the final destinations where the materials are diverted to, and other variables.	Thank you for the comment. CalRecycle is developing compliance tools that it will share with jurisdictions when the proposed regulations are finalized.
3471	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Container Contamination and Jurisdiction Requirements LASAN believes that contamination is inevitable. In the definition, as well as throughout the proposed regulations, there is no mention of a reasonable lower limit for observed contamination. A low cap on contamination percentages in organic waste recycling would lead to unintended consequences. Waste haulers and processors will be quick to reject loads if they are not required to collect and process all organic waste loads. Such that an insignificant amount of contamination	A change to the regulatory text is not necessary. Section 18984.5 states that the jurisdiction may dispose of the container’s contents if it observes visible prohibited container contaminants. Additionally, Section 18981.2(b) allows a jurisdiction to designate to a public or private entity, such as the hauler, to fulfill responsibilities under the Chapter. The regulations allow for a jurisdiction to instruct its hauler(s) to dispose of prohibited container contaminants. It will be up to the jurisdiction to provide direction to its hauler(s) regarding how this should be addressed,

Comment Number	Received From	Question/Comment	Response(s)
		<p>can trigger load rejections by the hauler or facility. This would directly contradict requirements in LAS AN' s recycling contracts, yard trimmings contracts, and recyclLA contracts. A low hard restriction on contamination will lead to more loads being rejected by the processor and thus more materials will reach landfills.</p> <p>Although the regulations call for source separation of materials, contamination will occur, and it is understood that processing costs increase as contamination levels increase. There needs to be a tolerance for contamination, particularly early in the program implementation where the emphasis should be on customer education and outreach. In the City, our Construction and Demolition (C&D) Recycling Ordinance and Program require all Certified C&D facilities to accept and process all loads to avoid rejection of loads.</p> <p>Therefore, LASAN requests that Waste haulers should be required to collect and process source separated material for recycling and beneficial reuse. Facilities should accept loads with up to 50 percent contamination (by weight) and not be selective in order to keep their diversion rates high.</p> <p>In addition, LASAN request that CalRecycle amend any language that allows facilities or haulers from rejecting loads without explicit permission from the jurisdiction or contract language that specifies contamination procedures.</p> <p>LASAN would recommend that loads having up to 50 percent contamination (by weight) be processed to recover recyclable or compostable materials, and residual materials are then disposed. If loads with less than 50% contamination are allowed to be discarded or rejected under state regulations, there will be an immediate increase in organic waste going to the landfill.</p>	<p>e.g., certain parameters the hauler may consider, or the jurisdiction needs to provide pre-approval, etc.</p> <p>In regards to the threshold for contamination in containers: The regulations do not set a minimum amount of prohibited container contaminants for route reviews. During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. Moreover, in response to comments received during the 45-day comment period, CalRecycle revised the contamination monitoring provision to rely primarily on the solid waste facility that receives the material, as opposed to requiring jurisdictions to conduct individual route reviews</p> <p>The requirement is if the waste is a mixed waste organic collection stream, then it must meet the recovery efficiency rate for organic waste, and the organic waste sent to a secondary facility (compost/ In-vessel digestion) for recovery needs to be less than 20 percent of incompatible material on and after 2022 and 10% on and after 2024, otherwise, there is limitations on where to send the material. Material with more than the acceptable limit of incompatible material must be sent to a Transfer/processing facility that can meet 17409.5.8 or a compost/ In-vessel digestion facility that disposes of no more than acceptable level of organic material in their residual waste stream.</p>
3472	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Prohibited Container Contaminants</p> <p>a) While LASAN currently does not collect textiles or carpet in the green bin, there should be flexibility to allow these materials to those bins based on facility processing equipment and operation.</p>	<p>Textiles and carpets are not normally accepted by organic waste recycling facilities such as composting or in-vessel facility that takes materials in green containers. However, CalRecycle included this provision allowing textiles in green containers because stakeholders during the informal rulemaking workshops requested such flexibility. CalRecycle is not aware of any compelling reason to prohibit textiles from being placed in green containers.</p>
3473	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Prohibited Container Contaminants</p> <p>b) Section 18984.5 Container Contamination Minimization.(b)(l)Upon findingprohibited container contaminants in a container, the iurisdiction, or its designee, shall contact the generator or provide written notice to the generator. It is not possible to determine individual generators that contaminate a route unless containers are individually checked. This is not feasible in our residential curbside program which utilizes automated side loading vehicles and for which the bins are covered. Route drivers are expected to collect between 800 and 900 containers on each route each day. LASAN recommends at a minimum exempting single-family and small multifamily residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3474	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Prohibited Container Contaminants</p> <p>c) Requires route review on randomly selected containers in all collection routes quarterly (pg 12. line 19-20 of Proposed Regulation Text).</p> <p>LASAN directly services over 2.25 million containers every week. A quarterly route review for all routes in the City is not possible without significant additional staffing and resources. The City has approximately 3,500 residential routes. To review those quarterly, LASAN would have to inspect 58 residential routes per day, with up to 900 containers per route. It is not feasible for City solid waste collection drivers to perform this additional task. Therefore, the City would incur significant additional staffing and resource costs to satisfy this metric. Staffing must be robust enough to cover vacations, holidays and other potential absences.</p> <p>LASAN estimates that this single task would require additional funding of at least \$14 million annually, for the staff and equipment necessary to inspect approximately 20 percent of the selected containers on each route each day. This estimate does not include additional</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements. CalRecycle modified the regulations to annual. Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3475	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Prohibited Container Contaminants</p> <p>d) (b)(2) If a jurisdiction (or its designee) observes a visible prohibited container contaminant in a generator's green container or blue container. it may dispose of the container's contents.</p> <p>The draft regulations do not define what it means to observe a prohibited container contaminant. There needs to be some minimum level or threshold amount to constitute contamination. Observing a single glass bottle in the green bin or a single</p>	<p>It is infeasible to set a particular contamination level as a threshold for disposal of the container contents. To do so would require emptying each container and doing a waste evaluation. The regulations were thus drafted to provide flexibility to jurisdictions. Jurisdictions may also have more stringent requirements in local implementing ordinances and may consider how to use that authority to limit disposal of contaminated containers.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>banana peel in either the black or the blue bin should not exceed the minimum threshold of contamination.</p> <p>The designee should not be able to self-select disposal of a container's contents based on contamination, which would represent a violation of the City's recycLA requirements. The City has contracts that require processing of materials with a high level of contamination, so that maximum recycling is achieved. The proposed regulation would immediately and directly contribute to an increase in organic waste disposal. The City has not experienced bins having no contamination, and therefore, according to the draft language, over 400,000 tons of green bin materials currently processed and mulched/composted could be rejected and sent to landfill as an unintended consequence.</p>	
3476	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Prohibited Container Contaminants</p> <p>e) (c) If a jurisdiction is informed by a solid waste facility operator that the waste collected by one of its haulers contains prohibited container contaminants while the hauler was servicing the jurisdiction's generators, then the jurisdiction (or its designee) shall: (j) Investigate by physically inspecting containers along the route(s) that the contaminants came from to determine the sources of contamination.</p> <p>As in the previous comment, it is not possible to determine individual generators that contaminate a route unless bins are individually checked prior to collection. This is not feasible in automated vehicles without significant added expense. LASAN recommends at a minimum exempting single-family and small multifamily residential routes from this requirement.</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3478	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>recycLA Contamination Protocols</p> <p>recycLA is a public-private partnership that provides efficient waste and recycling services to approximately 66,000 commercial, industrial, and large multifamily buildings in the City of Los Angeles. Through exclusive franchise contracts, recycLA service providers (RSP) offer a three-bin system. RSPs may only haul waste and recyclables to facilities that have been certified by the City. These facilities must</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>meet the City's standards for processing and diversion, among other requirements. All RSPs are expected to achieve 65% landfill disposal reduction targets by 2025. It is in the best interest of the City and the RSPs to measure and reduce the contamination within the three waste streams. Below is a description of Waste Assessments.</p> <p>RSPs are contractually required to conduct a waste assessment of all commercial and multifamily properties to determine the optimal level of service at least once every two years. This will determine the appropriate bin size and the appropriate frequency of service; recycLA customers can also request additional waste assessments up to twice per year. The assessments additionally provide a tool to see if there is bin contamination and to educate residents in proper waste sorting.</p> <p>ii. Biannual Waste Characterizations. The recycLA RSPs are also required to conduct biannual Waste Characterizations (WC) of Municipal Solid Waste, commingled recyclables, and green waste routes serviced in each Zone. The number of samples for each WC depends on the number of customers serviced in each Zone per week. The samples are randomly pulled from the RSPs routes and must represent the different types of businesses (including multifamily residences) in the Zone. The WC will determine levels of contamination for each of the RSPs collection routes. The WC will also be used to assess the RSPs' success in reducing landfill disposal. The current WC guidelines are attached.</p> <p>iii. RSPs notice of contamination</p> <p>The RSPs are required to report contamination of bins as a service request in the My LA 311 (Customer Care) System. This reporting includes the customer's address and the service need(s). The recycLA customers are also able to report contamination by submitting a service request through LASAN's MyLA311 Customer Care System. These will create a record of contamination for commercial and large multifamily properties throughout the city. The contract language for contamination is also attached.</p>	<p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p> <p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3479	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Curbside Residential Contamination Protocols</p> <p>The City has operated a three bin curbside residential program for all single and small multifamily residences since the 1990s. In total, the City services over 2.25 million containers every week with approximately 3,500 residential routes. For each route per day, the driver can collect up to 800 to 900 containers.</p> <p>To efficiently manage these routes, the City has invested in automated-side loading vehicles and bins with flip top lids. The driver does not need to exit the vehicle to load the trash, and is unable to observe contamination in bins because they are usually closed. If there is obvious, protruding-contamination in bins, the driver may exit the vehicle and place a contamination tag on the bin. This tag will instruct the resident on proper disposals of the contaminated materials.</p> <p>After collection, the material is taken either directly to a processing or disposal facility or to a transfer station where loads may be inspected for contamination. If the truck has a large amount of contamination, and the City is notified, the City may</p>	<p>During the informal rulemaking period, stakeholders commented on the difficulty of measuring contamination on a volume or weight basis, the associated costs, and the inability to justify a particular percentage. In response, CalRecycle modified the contamination monitoring provision to eliminate the percentage threshold and allow more flexibility to jurisdictions, while still maintaining enforceable requirements.</p> <p>Moreover, in response to comments received during the 45-Day comment period, CalRecycle revised the contamination monitoring provision to allow primarily solid waste facility based monitoring, as an alternative to requiring jurisdictions to conduct individual route reviews. These changes will result in a less costly alternative that will still have the desired results in addressing contamination. This could result in increased inspections and follow-up education in areas where there is consistent contamination, with associated savings of not having to conduct reviews in areas that do not exhibit consistent contamination. It would also address the issue of what constitutes significant contamination, because the facility would sample and measure contamination levels.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>send Ambassadors to provide neighborhood-level education to residents about contamination and proper waste sorting.</p> <p>In addition to education and outreach, the City works closely with the processing facilities to ensure that loads are processed and that contamination is removed. Current City contracts require facilities to accept loads with up to 50 percent contamination (by weight). Facilities under City contract may not be selective of loads to keep their diversion rates high. Instead, facilities are required to remove contaminants and process the materials. The facility notifies the City when a load is rejected for contamination that exceeds the designated levels. Information including the date, time, truck, route collected, and a photograph are provided for the contract manager's records and can be contested by the contract manager after review.</p>	<p>CalRecycle disagrees with the recommendation to exempt residential routes from the, since the residential section makes up approximately more than half of organic waste generation. The revisions to Section 18984.5 address the cost issues raised by this comment. CalRecycle also disagrees that contamination monitoring should be totally at the discretion of jurisdictions. However, CalRecycle revised Section 18984.5(c)(1) to remove the term 'physically.' This change is necessary to allow jurisdictions to use video monitoring to inspect the containers. This change would be in alignment with the definition of "route review" in Section 18982 (a)(65) which allows the use of cameras to determine container contamination.</p> <p>In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization.</p>
3480	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Food Rescue Implementation Requirements</p> <p>LASAN supports SB 1383's goal to recover 20 percent of edible food. However, there are challenges to measure this goal since there is no accurate basis to set a generator baseline for edible food. Such basis cannot be drawn from waste characterizations, and indeed the measurement of what is edible before being disposed in the bin is subjective and changes daily for the generators, depending on what food can be rescued, over which they have no control. The capacity to recover edible food is also difficult to measure as most food recovery depends on a variety of factors from refrigeration space to volunteer availability. In LASAN's opinion, diversion and capacity estimates, because it cannot be verified, cannot be used as a compliance measurement for jurisdiction or generator compliance. Significant penalties associated with all food rescue activities are broad and overly punitive.</p>	<p>Public Resources Code Section 42652.5(a)(1) through (4) grants CalRecycle the authority to impose requirements on jurisdictions and may include requirements to meet the goal that not less than 20% of edible food that is currently disposed is recovered for human consumption by 2025. This evinces an intent on the part of the Legislature to allow for CalRecycle to place requirements on jurisdictions to increase edible food recovery.</p> <p>To help achieve the statewide 20% edible food recovery goal, SB 1383's regulations include edible food recovery capacity planning requirements. In addition, Section 18991.1 (a)(4) includes a requirement that jurisdictions must increase edible food recovery capacity if it is determined that sufficient capacity does not exist. Assessing edible food recovery capacity at the local level is critical for jurisdictions to be able to understand if capacity needs exist, and exactly what their capacity needs are. It is at the discretion of the jurisdiction to determine what jurisdiction entity is best suited to assess edible food recovery capacity and ensure that compliance with this regulatory requirement becomes a part of their scope.</p> <p>CalRecycle would also like to mention that the Department intends on developing a tool to assist counties, jurisdictions, and regional agencies with estimating the amount and types of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county. CalRecycle also intends on providing additional resources to assist with completing capacity planning analyses. Please note that this requirement does not require estimates to be exact or absent of any error or uncertainty. Rather it requires that each estimate is defensible and conducted in compliance with the requirements of Section 18992.2.</p>
3481	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Food Rescue Implementation Requirements</p> <p>The proposed food rescue data and record keeping requirements are akin to a hazardous waste manifest system, which may have unintended impacts on small non-profits food rescue organizations. There are hundreds of such non-profit organizations, some with few employees and little recordkeeping capabilities, saving edible food from waste disposal at this time. LASAN recommends that CalRecycle provide the basis for the six tons per year for reporting. It is our understanding that most large organizations may process more than six tons of food within one day.</p>	<p>A change to the regulatory text was not necessary because the commenter has misinterpreted the regulations. To clarify, record keeping requirements are not the same as reporting requirements. Commercial edible food generators are not required to report any information to the jurisdiction, and regulated food recovery organizations and services are only required to report the total pounds of edible food recovered in the previous calendar year (from commercial edible food generators) to the jurisdiction where the organization or service's primary address is physically located. For additional clarification on edible food recovery recordkeeping and reporting requirements please refer to the FSOR.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>Reporting and data collection requirements in the proposed regulations are unmanageable for the generators, food rescue organizations, and jurisdictions. The City will have to collect, analyze, and retain millions of data points every year, after developing a data system, and adding additional staff to gather and maintain that data, which does not exist now, and under circumstances that change daily. LASAN recommends simplifying the data collections requirements similar to what is implemented in recycLA.</p>	<p>Regarding the comment, "LASAN recommends that CalRecycle provide the basis for the six tons per year for reporting." The 6-ton threshold was removed because it created an 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 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 verify if the commercial edible food generator was in compliance.</p> <p>To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold from the regulatory text. The final regulations 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.</p> <p>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 the 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% edible food recovery goal. 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.</p>
3482	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Food Rescue Implementation Requirements Article 10: Jurisdiction Edible Food Recovery Program. Section 18991.1 (a)(4) Increase edible food recovery capacity if the analysis required by Section 18992.1 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs. Edible food recovery is handled by many non-profit organizations. They are not able to 'add capacity' as a facility can. This section is unclear and would be very difficult to comply with.</p>	<p>CalRecycle consulted with many food recovery organizations and services (both large and small-scale operations) in California during the SB 1383 rulemaking process. Nearly all of the food recovery organizations and services that CalRecycle engaged with are either taking actions to increase their own capacity, or they are taking actions to help other food recovery organizations and services recover more food.</p> <p>Food recovery organizations and services are able to add capacity by purchasing refrigeration, purchasing new kitchen equipment, using refrigerated vehicles, using food donation matching software, leveraging partnerships with other food recovery organizations to recover more food and feed more people, hiring staff, hiring drivers, training more volunteers, and using education and outreach to recruit new volunteers and to educate businesses about donating food. In short, food recovery organizations and services are able to add capacity. A jurisdiction could potentially demonstrate compliance with Section 18991.1. (a)(4), by funding these types of activities as a part of their food recovery program. Several jurisdictions in California are already doing this.</p> <p>CalRecycle would also like to note that nothing in SB 1383's regulations requires a food recovery organization or a food recovery service to increase edible food recovery capacity at their facility. Counties, jurisdictions, and regional agencies are required to comply with the capacity planning requirements. Jurisdictions are also required to increase capacity if it is determined that they do not have sufficient capacity to meet their edible food recovery needs.</p>

Comment Number	Received From	Question/Comment	Response(s)
3483	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Food Rescue Implementation Requirements Section 18991. 2 Recordkeeping Requirements for Jurisdiction.</p> <p>The City may be able to keep a record of all Tier I and Tier II defined edible food generators, but would be unable to track all arrangements with food recovery organizations or services. Food recovery arrangements are often informal and may vary depending on the quantity and nature of the recovered food. The City will not be able to create a comprehensive list of all edible food recovery organizations and their capacity. Further, capacity can greatly vary for many organizations.</p>	<p>Regarding the comment about tracking arrangements, a change to the regulatory text was not necessary because jurisdictions are not required to track the details of each contract or written agreement. To clarify, jurisdictions are required to verify that a contract or written agreement has been established. To help jurisdictions monitor compliance and verify that contracts and written agreements have been established, the regulations include recordkeeping requirements for commercial edible food generators and for food recovery organizations and services. A jurisdiction could use the record to verify that a commercial edible food generator has established a contract or written agreement with a food recovery organization or service by requesting to see the generator's record of their contract or written agreement.</p> <p>Regarding the comment, "The City will not be able to create a comprehensive list of all edible food recovery organizations and their capacity. Further, capacity can greatly vary for many organizations." A change to the regulatory text was not necessary for the following reasons. The requirement does not specify that the jurisdiction shall maintain a list of all food recovery organizations and services operating within the jurisdiction, just that "a list" be created and maintained on the jurisdiction's website. It is at the jurisdiction's discretion to determine the food recovery organizations and services that they feel should be included on the list. Please note that the list is intended to serve as a tool to help generators find appropriate food recovery organizations and services to establish a contract or written agreement with, and thereby help ensure that edible food in the jurisdiction is not disposed, but rather put to its highest and best use of helping to feed people in need. Developing a list that includes food recovery organizations and services that have sufficient 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 services that are capable of safely handling and distributing large amounts of recovered edible food on a regular basis.</p> <p>CalRecycle would also like to note that many cities and counties have already created lists of food recovery organizations and services and included capacity information in their list. LA County for example, has developed an online tool called FoodDrop LA, where generators of excess edible food can locate nearby food recovery organizations that are capable of accepting their food donations.</p>
3484	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Food Rescue Implementation Requirements Section 18991.4 Record Keeping Requirements for Commercial Edible Food Generators Section 18991.5 Edible Food Recovery Services and Organizations.</p> <p>These sections require that commercial entities maintain a manifest of all recovered food. This may be infeasible given the informal nature of many food recovery operations. Food is not always measured by food recovery organizations. Often times food amounts are estimated, based on number of pallets, cases, or other metrics. This will be difficult to track and audit.</p>	<p>A change to the regulatory text was not necessary because the recordkeeping requirements in Sections 18991.4 and 18991.5 do not require that a manifest of all recovered food be maintained. Requiring commercial edible food generators to maintain records is critical to help jurisdictions monitor compliance.</p> <p>CalRecycle has done significant outreach with stakeholders during the rulemaking process to ensure that the recordkeeping requirements are feasible. CalRecycle consulted with food recovery organizations and services throughout the state to learn more about the information they track, and to learn about the information they provide to their donors. The majority of the organizations that the department has met with provide their donors with some kind of receipt of donation. By providing a receipt of donation, donors are able to track the amount of food they have donated over time and can claim their federal enhanced tax deduction.</p>

Comment Number	Received From	Question/Comment	Response(s)
3485	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Food Rescue Implementation Requirements</p> <p>Article 11. Organic Waste Recycling Capacity Planning. Section 18992.2 Edible Food Recovery Capacity.</p> <p>It is not possible to comply with this requirement. Nothing other than a very rough estimate is feasible to measure how much edible food is discarded. Who makes the determination that the food is edible for human consumption? It is the City's opinion that this estimate, because it cannot be verified, cannot be used as a compliance measurement for jurisdiction or generator compliance. In addition, as stated previously, there are hundreds of non-profit organizations, some with few employees and little recordkeeping, saving edible food from waste disposal at this time. A true capacity study cannot be completed for this material, and not with the accuracy that is required for requirements carrying heavy responsibility as well as significant civil penalties.</p> <p>Edible Food Recovery cannot be analyzed using the same methodology as traditional waste infrastructure. Food recovery organizations need to be flexible to connect donated food with those in need. Food recovery organizations are also working with various types of food with different shelf lives. For example, capacity may differ for accepting fresh produce versus non-perishable foods.</p> <p>Edible Food Recovery Organizations are often nonprofit or community organizations. Local jurisdictions and counties can provide resources or support to these organizations, but the expansion would directly depend on that organization's capacity to expand. Different incentive models, tools, and analysis should be used for assessing this market over time, but reliable capacity metrics are not currently possible.</p>	<p>Edible food recovery capacity analyses have already been completed and will continue to be completed in preparation for SB 1383 implementation. CalRecycle intends on providing guidance and resources to help jurisdictions identify existing capacity at food recovery organizations and food recovery services, which may include existing surveys that have been developed specifically to help identify current edible food recovery capacity and capacity needs.</p> <p>During the rulemaking process, CalRecycle worked with many food recovery organizations (both large and small-scale operations) in California. Nearly all of the food recovery organizations and services that CalRecycle engaged with are either taking actions to increase their own capacity, or they are taking actions to help other food recovery organizations and services recover more food. Food Recovery organizations and services are able to add capacity by purchasing refrigeration equipment, purchasing new kitchen equipment, using refrigerated vehicles, using food donation matching software, leveraging partnerships with other food recovery organizations to recover more food and feed more people, hiring staff, hiring drivers, training more volunteers, and using education and outreach to recruit new volunteers and to educate edible food generating businesses about food recovery. In short, food recovery organizations and services have significant capacity needs, which further highlights the critical need for SB 1383's edible food recovery capacity planning requirements.</p>
3486	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Procurement Baseline and Requirements</p> <p>a) Article 12. Procurement of Recovered Organic Waste Products.</p> <p>SB 1383 does not specifically call for the regulation of local jurisdiction procurement policies. The City has a complex procurement policy that requires competitive bidding, as well as an Environmental Purchasing Policy which requires departments to incorporate and prioritize the use of environmentally sustainable products in their day-to-day business activities. LASAN recommends that any procurement policies align with competitive bidding requirements. CalRecycle may wish to use the State's Buy Recycled program as a model for jurisdictions.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, which is an essential component of achieving the highly ambitious organic waste diversion targets mandated by SB 1383, which are unprecedented in their own right. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets set forth by the Legislature.</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "The department, 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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>stated that “[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. ‘[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority’ The [administrative agency] is authorized to “fill up the details” of the statutory scheme.”</p> <p>Consistent with CalRecycle’s broad rulemaking authority, the proposed procurement requirements are designed to help achieve the organic waste diversion goals in SB 1383 by supporting markets for recovered organic waste products. The regulations have a direct nexus to achieving those organic waste diversion goals by preventing initially diverted organic waste from being disposed due to lack of end uses.</p> <p>Health and Safety Code Section 39730.8, also in SB 1383, refers to CalRecycle considering recommendations in the California Energy Commission’s 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas. The IEPR recommended that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” As such, provisions for the procurement of renewable transportation fuel generated from recovered organic waste.</p> <p>Further, the Air Resources Board’s Short-Lived Climate Pollutant Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.”</p> <p>The inclusion of compost as an eligible recovered organic waste procurement product 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. The purpose of a compost procurement requirement is to establish markets for compost, which is a product generated by organics recycling facilities which the SLCP Strategy identified as in need of market development.</p>
3487	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Procurement Baseline and Requirements Section 18993.1 Recovered Organic Waste Product Procurement Target. For part (t) of this section, Recovered Organic Waste Products should include mulch, electricity generated from renewable natural gas, as well as a significant compost giveaway program to our residents. Please also confirm if our understanding, that "compost" includes compost made with biosolids, is correct.</p> <p>The City currently converts 7 .5 million cubic feet of digester gas produced at the Hyperion Water Reclamation Plant to generate electricity to operate the plant. This should be included towards the product procurement goal. Additionally, the City is working to electrify its City fleet. Many of the current light-duty vehicle purchases are electric and LASAN has begun studying the use of heavy-duty electric collection vehicles as well. This will decrease the City's need to procure renewable natural gas for transportation fuel.</p> <p>SB 13 83 calls on CalRecycle to report on the status of markets, including cost-effective electrical interconnection. Therefore, CalRecycle should include electricity</p>	<p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>Regarding mulch, CalRecycle has revised the regulatory language to add mulch provided it is derived from certain solid waste facilities and the jurisdiction requires such material to meet land application environmental health standards.</p> <p>Regarding biosolids compost, the current draft regulatory text considers compost an eligible recovered organic waste product as long as the final product meets the definition of compost, per Section 17896.2(a)(4), and is produced either at a compost operation or facility or large volume in-vessel digestion facility that composts on-site (refer to Section 18993.1(f)(1)(A) and (B).</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>within this target. LASAN would request clarification on how biomethane would be counted if procured through public utilities that may also have biomethane procurement targets?</p>	<p>Biosolids and/or digestate that do not meet the compost definition will not count towards the procurement target.</p> <p>The procurement requirements do not mandate a jurisdiction to prove “additionality” to any other mandatory or voluntary programs. For example, there are no restrictions on a jurisdiction counting biomethane procured from a utility regardless of whether that utility has to meet separate procurement standards.</p>
3488	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Procurement Baseline and Requirements Sections 18993.2. 18993.3 and 18994.4 Recordkeeping and Procurement Requirements.</p> <p>LASAN would need additional staff to compile this information and improve the City's data collection process, resulting in additional cost to our customers. LASAN recommends changing this requirement to focus on updating City ordinances to comply with recycled content targets over requiring annual reports on paper product purchases. CalRecycle may also focus recycled content targets on the three to five paper products purchased in the greatest volume (units) or as measured by dollars spent, which typically would include copy paper, janitorial paper, and printing paper.</p>	<p>The language has already been changed in the previous draft to remove the 75% requirement and instead applies a blanket requirement that purchases of paper products and printing and writing paper be consistent with existing Public Contract Code requirements regarding recycled content. CalRecycle disagrees with narrowing the definition of “paper products”. Paper is an organic material, and as such is subject to the ambitious organic waste diversion targets required by SB 1383. Therefore, it is within the purview of this regulation to build markets for recycled content procurement of all paper products, not just a select few paper products. It should also be noted that the broad range of products is intended to provide more flexibility to jurisdictions in terms of the paper products eligible for purchase. There is no requirement to purchase all of the paper products listed.</p>
3489	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Biosolids Management Requirements Article 1. Definitions. Section 18982 (62) "Renewable Transportation Fuels".</p> <p>In relation to the procurement of natural gas, we request the definition as listed in Article 1 be expanded to include renewable natural gas transportation fuel, which is derived from sewage sludge anaerobic digestion alone without co-digestion. Anaerobically digested sewage sludge, land application of the resultant biosolids, and producing low carbon transportation fuel is consistent with the intent of SB 1383. Therefore, we request the following change to Article 1 Section (a)(62) to read "Renewable transportation fuel" means fuel derived from renewable gas from organic waste that has been diverted from a landfill and processed at in an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 or Title 23 to recycle organic waste."</p>	<p>CalRecycle disagrees with the commenter’s argument to allow renewable gas derived solely from sewage sludge to be eligible for procurement. The regulations clarify that only renewable gas derived from organic waste received at a POTW from solid waste facilities may count towards a jurisdiction’s procurement target. Other materials digested at a POTW, such as sewage sludge, are ineligible. Renewable gas derived solely from sewage sludge is ineligible for procurement because a POTW is not a solid waste facility 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. For the reasons noted above, gas generated from the inflows of a sewer system and not from organic waste diverted from the solid waste stream cannot logically be considered a recovered organic waste product. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.</p> <p>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.</p>
3490	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Biosolids Management Requirements Article 2. Landfill Disposal and Reductions in Landfill Disposal. Section 18983.1 (6)(B) Biosolids shall O) have undergone anaerobic digetstion or composting; one of the</p>	<p>CalRecycle understands the importance of the various pathogen treatment process provided in Appendix B to Part 503. Currently, only biosolids that have been processed by anaerobic digestion or composting have been verified to reduce greenhouse gas emission equivalent to the baseline of 0.30 MTCO₂e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>processes as defined in Part 503. Title 40 of the Code of Federal Regulations. Appendix B.</p> <p>In this section, the activities considered "recovery" and thus a reduction in landfill disposal are outlined. In relation to biosolids land application, this section of the draft regulatory text only specifies anaerobic digestion and compost as recovery activities. However, Appendix B of the federal part 503 regulations stipulates a number of suitable options for processing wastewater to meet pathogen reduction requirements. The multiple other viable technologies for treating both classes should be deemed acceptable for "recovery" since according to Appendix B they are considered equivalent to anaerobic digestion and compost and none of these technologies generate methane. Although LASAN currently uses anaerobic digestion, operational concerns may arise requiring use of a different treatment option as listed in Appendix B. The greenhouse gas reduction value of land application rather than landfilling is universally equal regardless of the technology used for pathogen reduction, thus, other technologies that are currently used or may be used in the future should not be penalized. Therefore, LASAN recommends CalRecycle to replace the words "... anaerobic digestion or composting ..." with "... one of the processes ...".</p>	<p>only consider these technologies when the resulting products are applied to land to ensure the state meets the prescribed emissions reduction target delineated in SB 1383.</p> <p>However, to maintain flexibility to consider additional activities and/or technologies not already verified to minimally meet the baseline, section 18983.2 provides a regulatory pathway for a determination process. Section 18983.2 allows CalRecycle, in consultation with CARB, to make a determination if a project that is not already identified in Section 18983.1(b) can achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.</p> <p>Please refer to Section 18983.2 for more information.</p>
3491	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Biosolids Management Requirements</p> <p>c) Article 6. Biosolids Generated at a POTW. Section 18987.2(a)(I) Biosolids and Sewage Sludge Handling at a POTW</p> <p>Currently, this section indicates that biosolids shall be "transported only to a solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 18983.1(b) of this division". We suggest that CalRecycle update that language to include technologies approved under Section 18983.2 (Determination of Technologies That Constitute a Reduction in Landfill Disposal). This would allow new innovative technologies to be implemented to reduce landfill disposal of biosolids. For example, it would allow LASAN to continue to use the Terminal Island Renewable Energy Project (TIRE), which is a demonstration project that is working to convert biosolids into a renewable clean energy through deep well injection, as a diversion method for biosolids.</p>	<p>Comment noted. Section 18987.2 was removed from the regulations. The regulations do not ban any organic waste stream from landfills. This is prohibited in statute and it is therefore unnecessary to explicitly articulate this.</p>
3492	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Jurisdiction Inspection and Enforcement</p> <p>In the proposed regulations, an annual compliance review is required for all commercial businesses generating more than two cubic yards/week of solid waste. The City has over 66,000 commercial waste accounts. Completing an annual compliance review of all solid resources accounts with more than two cubic yards/week of solid waste would be a high regulatory requirement. This requirement is in addition to the quarterly bin checks on every route. This requirement would add a substantial cost to the City's commercial customers and require an amendment to the recycLA contract. In the City's recycLA contracts, recycLA service providers are required to perform a waste assessment at each</p>	<p>A change to the regulatory text is not necessary. Section 18995.1 states the jurisdiction shall generate a record for compliance reviews conducted that includes a list of accounts reviewed. A compliance review shall be conducted for all solid waste collection accounts for commercial businesses that are subject to its authority and generate two cubic yards or more per week of solid waste, including organic waste. If a jurisdiction is conducting compliance review on its residential generators to comply with organic waste generator requirements set forth in Section 18984.9(a), this record would include residential generators.</p> <p>Comment noted. SB 1383 allows a local jurisdiction to charge and collect fees to recover the costs incurred in complying with the regulations.</p>

Comment Number	Received From	Question/Comment	Response(s)
		customer account every two years. LASAN recommends changing compliance review to every other year.	
3493	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement Section 18995.1 (a)(2) Conduct inspections of Tier One commercial edible food generators and food recovery organizations for compliance with this chapter. Please delete this requirement. LASAN cannot undertake a compliance records audit with thousands of customers and hundreds of food rescue partners each year. The scope and scale of this requirement cannot be met. CalRecycle should revisit what records are necessary, and the realistic potential of jurisdiction control and oversight of this sector.	A change to the regulatory text is not necessary. Section 18995.1 is necessary to verify if the commercial edible food generators have arrangements to recover edible food and are not intentionally spoiling edible food. The legislation requires actions that will reduce poverty-induced hunger by redirecting 20 percent of edible food that is currently disposed, in addition to avoiding methane emissions and feeding millions of food insecure Californians. Section 18995.1 requires a jurisdiction to inspect Tier One commercial edible food generators and food recovery organizations annually, but there is no requirement for the amount of inspections. A jurisdiction shall conduct a sufficient number of inspections of entities to ensure overall compliance with this chapter.
3494	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement Section 18995.1 (b) A jurisdiction shall conduct a sufficient number of compliance reviews, route reviews and inspections to ensure compliance with this chapter. A jurisdiction shall inspect entities that it determines are more likely to be out of compliance. CalRecycle must define a "sufficient number of reviews" or allow jurisdictions to develop their own review schedules subject to CalRecycle approval. In this proposed regulation, CalRecycle is requiring annual compliance review for commercial businesses and quarterly route reviews for both commercial and residential review. This will be a substantial increase in reviews and will not allow for additional strategic review.	A change to the regulatory text is not necessary. The language in this subsection was worded in such a way to allow the requirement for inspections to be tailored to the unique circumstances of each jurisdiction. This allows the jurisdiction the flexibility to conduct the number of inspections needed to have an overall picture of the compliance of generators under their authority and to ensure their own compliance with the Chapter. Jurisdictions shall have an inspection plan on how they will be conducting their inspections, such as but not limited to, inspecting entities that may be more likely to be out of compliance or focusing on large generators. In addition, quarterly route reviews are not required in the regulatory language.
3495	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement Section 18995.1 (c) & (d). Route review requirements are unnecessary and onerous. CalRecycle is requiring written records for a massive amount of data from the City each year, as well as detailed information from all other contacts and responses. In addition, it is unclear where and how CalRecycle would maintain and store this information, how CalRecycle would analyze all of this information, and how all the data will be used.	A change to the regulatory text is not necessary. Article 13 and 14 are necessary to set the minimum requirements for reporting and recordkeeping by jurisdictions. The reporting information summarizes elements of the Implementation Record and the recordkeeping requirements provide sufficient evidentiary record so the Department can ensure jurisdictional compliance with the chapter.
3496	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement Section 18995.2 Implementation Record and Recordkeeping Requirements. (c) Upon request by the Department, the jurisdiction shall provide access to the Implementation Record within one business day (d) All records and information from each reporting period shall be included in the Implementation Record within 30 days of the last day of the reporting period. This requirement is not realistic. There may be impediments or backlogs that prevent the provision of up-to-date records within one business day. There may also be human errors or delays that would cause slower turnaround. In addition, the reporting period needs to be defined.	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
3497	Zaldivar, E., City of Los Angeles Bureau	Jurisdiction Inspection and Enforcement Section 18995.3 Jurisdiction Investigation of Complaints of Alleged Violations.	CalRecycle has revised section 18995.3 in response to this comment. The section was revised to allow a jurisdiction 90 days from the receipt of the complaint to begin an investigation. The

Comment Number	Received From	Question/Comment	Response(s)
	of Sanitation (LASAN)	It may not be feasible to investigate a complaint within 90 days depending on LASAN staffing or the nature of the complaint.	jurisdiction may decline to investigate a complaint if, in its judgment, investigation is unwarranted because the allegations are contrary to facts known to the jurisdiction.
3498	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement Section 18995.4 Enforcement by a Jurisdiction. CalRecycle should review timelines for violation notices to allow for more time for compliance.	A change to the regulatory text is not necessary. A jurisdiction has two years between 2022-2024 to perform outreach and educate the generators on the requirements of the Chapter. As described in section 18995.4, a jurisdiction can notice a generator found to be non-compliant. The generator has a maximum of 210 days to remedy the situation before a jurisdiction shall impose penalties. Moreover, 18995.4 includes provisions to allow compliance extensions for extenuating circumstances or limitations in jurisdictional infrastructure.
3499	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement Article 15. Enforcement Oversight by the Department {pg 33). Section 18996.1 (c)- Department Evaluation of Jurisdiction Compliance. "The Department shall notify the jurisdiction prior to conducting an evaluation" For AB 939 compliance, the City is on a 4-year review cycle and includes annual conference calls and site visits as part of the evaluation. This section simply states that "the department shall notify the jurisdiction prior to conducting an evaluation," which implies that it could be done at random. The City recommends that as CalRecycle deems necessary, evaluations be included with the annual AB 939 site visits.	A change to the regulatory text is not necessary. Section 18996.1 states the Department shall evaluate a jurisdiction's compliance with this Chapter, this includes the review of the jurisdiction's Implementation Record and may include inspections, compliance reviews, and route reviews. The regulations do not set a specific schedule or timeframe for the compliance evaluations, yet a jurisdiction is expected to be in compliance on an ongoing basis. Section 18995.2 does state, upon request by the Department, that the jurisdiction shall provide access to the Implementation Record within ten business days.
3500	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement Section 18996.1 (e) Department Evaluation of Jurisdiction Compliance. "If the Department determines at any time that an ordinance adopted by a jurisdiction is inconsistent with or does not meet the requirements set forth in this Chapter. the Department shall notify the jurisdiction and provide an explanation of the deficiencies. The jurisdiction shall have 90 days from that notice to correct the deficiencies. If the jurisdiction does not. the Department may commence enforcement actions as set forth in Section 15. 2 of this Chapter" If an ordinance needs to be revised, the City will require longer than 90 days to process and implement changes. Amending or changing an ordinance requires time for the City Attorney, Board of Public Works, City Council and Mayor to schedule, review, consider and approve any changes.	CalRecycle has revised section 18996.1(e) in response to this comment. The change increases the relevant timeline to 180 days.
3501	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	Jurisdiction Inspection and Enforcement CalRecycle should provide guidance on updating and renewing the Corrective Action Plan (CAP). If a CAP is necessary due to the lack of capacity and infrastructure for organic waste, a 24 month timeframe for corrective action may not be adequate to reach diversion targets. Infrastructure projects usually are multi-year efforts, some taking up to 5 years, and require time for funding, environmental review, design, and construction.	A change in the regulatory text is not necessary. The regulations are effective in 2022, allowing for ample time for planning for lack of capacity or infrastructure deficiencies. Currently, it is 2020 and jurisdictions have until 2022 to address any capacity deficiencies and if necessary, they can be placed on a Correction Action Plan that allows for an extended timeframe to come into compliance. The regulations allow up to three years to come in to compliance on a CAP (in total this is effectively equivalent to the request five years).
3502	Zaldivar, E., City of Los Angeles Bureau	Administrative Civil Penalties and Environmental Justice Issues SB 1383 mandates that organic waste generators who do not comply with applicable local requirements for the collection and recovery of organic waste shall	A change to the regulatory text is not necessary. The legislature, in SB 1383, directed CalRecycle to adopt regulations that require specified action from jurisdictions, including regulations that require jurisdictions to impose requirements on entities subject to their jurisdiction and

Comment Number	Received From	Question/Comment	Response(s)
	of Sanitation (LASAN)	be subject to penalties. Organic waste generators include single family households, multifamily accounts, and commercial entities. These penalties escalate based on the number of violations and are not based on the size of the generator nor amount of waste generated. CalRecycle should consider a fee structure that takes into account volume and impact.	authorizes penalties. The Chapter allows the flexibility to consider jurisdiction's differences and unique challenges by allowing the jurisdiction to develop and adopt their own enforceable ordinances that meet or exceed the requirements of the Chapter. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900 which already apply to penalties levied by jurisdictions. These set the maximum penalties that local agencies may impose. Regarding fees, SB 1383 provides broad discretion for local jurisdictions to charge and collect fees to recover its costs in complying with the regulations. These regulations do not curtail that statutory authority.
3503	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Administrative Civil Penalties and Environmental Justice Issues Article 16. Administrative Civil Penalties for Violations of requirements of This Chapter (pg 38)</p> <p>The violation ranges in Article 16 are extremely large, overlapping and unnecessarily burdensome. Level 1 violations start at \$50 per violation and Level 6 violations can be as high as \$10,000 per day. It does not appear that CalRecycle has analyzed how these fees would impact Californians.</p>	<p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p>
3504	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Administrative Civil Penalties and Environmental Justice Issues</p> <p>Per day penalties should be reserved for the most critical enforcement actions. In this proposed language, all jurisdiction/county fines are on a per day basis for violations. This includes minor offenses such as not labeling bins correctly as well as violations for not submitting compliance and implementation reports.</p>	<p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4,25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties.</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the</p>

Comment Number	Received From	Question/Comment	Response(s)
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3505	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Administrative Civil Penalties and Environmental Justice Issues LASAN also does not recommend fining most entities and our own ratepayers on a per day basis. Article 16 includes per day fines for property owners, business owners, nonprofits, commercial organic waste generators, and residential (multifamily and single family) organic waste generators. These fines will disproportionately impact disadvantaged communities, small businesses and nonprofit organizations. Additionally, LASAN may be exposed to legal action due to subjective "factors" provided in the proposed regulation to be used to determine penalty amount, such as "the ability for the violator to pay" and/or "the willfulness of the violator's misconduct."</p>	<p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies.</p>
3506	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Administrative Civil Penalties and Environmental Justice Issues Food Recovery Penalties. Article 16 lists penalties for commercial edible food generators and food recovery organizations in Table 1 and in Table 10. Table 10 includes per day violations which are not an appropriate incentive to increase food recovery capacity and should not be levied against food recovery organizations. These penalties do not assist California with moving edible food from landfill disposal.</p>	<p>CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste</p>

Comment Number	Received From	Question/Comment	Response(s)
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3507	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Administrative Civil Penalties and Environmental Justice Issues Organic Waste Generators Penalties (Residential Customers) Article 16 also lists penalties for organic waste generators in Table 1 and Table 8, with Table 8 mandating high per day fees. These fees would apply to all organic waste generators that do not comply with applicable local requirements for the collection and recovery of organic waste. This is an extremely vague violation, and as such, should not be tied to rigid fee structures. Organic waste generators include single family, multifamily and commercial entities. CalRecycle should not include residential customers in the same penalty structure as other entities. The City's households living in single family or small multi-family dwellings pay under \$40 per month for a three bin collection service. At the lowest end one violation will almost double a residence's expenses for waste. CalRecycle should create separate guidance for residential communities with a different fee structure. Fees should be based on the amount of organic waste and on the severity of the violation. Residential properties should not be subject to any per day fees and there should be a cap for any residential fees.</p>	<p>A change to the regulatory text is not necessary. Section 18984.4 states that organic waste generators, which includes residential generators, shall comply with the applicable local requirements adopted pursuant to Article 3 for the collection and recovery of organic waste by subscribing to collection service and if not subscribing to service, self-hauling organic waste in a manner that complies with the requirements of Article 7 of this Chapter. Section 18984.4 requires a jurisdiction to monitor generators using a three-container or two-container organic waste collection service to minimize prohibited container contaminants. If a jurisdiction observes prohibited container contaminants in a generator's containers on more than three consecutive occasions, the jurisdiction may impose additional contamination processing fee on the generator and may impose penalties. It is within the jurisdiction's discretion through its enforceable ordinance(s) on how to enforce non-compliant residential generators beyond what is required in the Chapter. CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the</p>

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3508	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Administrative Civil Penalties and Environmental Justice Issues Cal Recycle should also consider how these penalties will impact disadvantaged communities when finalizing SB 1383 regulations. Over 50 percent of the City's census tracts are in the top quartile of the CalEnviroScreen Score. These communities already have a higher concentration of environmental exposure as well as sensitive socioeconomic factors. Adding large fees for organic waste will not benefit these communities.</p>	<p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the jurisdictions and for entities when the jurisdiction has failed to enforce. In most programs with a progressive enforcement process, generators or operators have ample time to comply, resulting in very few fines. For example, Section 18995.4 explains the minimum timeframe for the process of issuing a Notice of Violation to an entity if they are found non-compliant. A jurisdiction has 60 days from the date of inspection to issue a NOV. This allows time for the entity to remedy the situation before the jurisdiction has to issue a NOV. If an NOV is issued, the entity has up to 150 days to come into compliance before the jurisdiction must commence action to impose a penalty. This allows an entity up to 210 days to remedy a violation before a penalty is imposed. Additional extensions are available due to extenuating circumstances or infrastructure deficiencies. CalRecycle has revised the penalty amounts in Section 18997.2 from per day violations to per violation. The penalty provisions are consistent with the existing penalty limitations in the Government Code Sections 53069.4, 25132 and 36900. Entities in violation are given ample time through the Notice of Violation process to comply and avoid penalties. Jurisdictions have the discretion to develop their own factors to be considered when determining a penalty amount, such as but not limited to, the impact on a disadvantaged community or the ability to pay, similar to the factors used by the Department listed in section 18997.3(d).</p> <p>A change to the regulatory text is not necessary. The penalty fines listed in Section 18997.2 Base Table 1 are the minimum penalty thresholds imposed by a jurisdiction. The severity levels allow a jurisdiction the discretion to penalize smaller businesses at the minimum penalty and levy a more substantial penalty against larger businesses that may be contributing more to the organic waste stream. These penalties are consistent with the limitations on fine levels for local agencies in the Government Code. The penalty fines listed in section 18997.3 Base Table 1-10 are minimum penalty threshold to be imposed by the Department and are specifically contemplated in the language of SB 1383 as being up to \$10,000 per day. These penalties are reserved for the</p>

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0	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Prohibited Container Contaminants</p> <p>f) Section 18984. 6 Recordkeeping Requirements for Container Contamination Minimization.</p> <p>To comply with this subsection, the City would manage and analyze a massive amount of data, cross-referenced to activities that are handled by many divisions. LASAN does not currently have such a data system, and would have to expend significant funding to develop and implement such a system, as well as fund staff to input, analyze and maintain the data system.</p>	Comment noted. Comment is not recommending a regulatory text change.
0	Zaldivar, E., City of Los Angeles Bureau of Sanitation (LASAN)	<p>Prohibited Container Contaminants</p> <p>g) LA SAN' s would like to take this opportunity to also briefly describe LAS AN' s recycLA contamination protocols as well as residential curbside program protocols. recycLA is a major milestone towards achieving the City's Zero Waste goals. The contracts were carefully negotiated and the City has worked closely with the RSPs in implementation this past year. As this program matures, the City will see a reduction in landfill disposal. We request that CalRecycle incorporate language from recycLA so that this landmark program can remain compliant with the SB 1383 regulations.</p> <p>Furthermore, due to the scale of LAS AN' s residential and commercial programs, it is important for CalRecycle to truly assess the benefit and costs of any changes made to deter contamination. LASAN requests that CalRecycle clarify what suffices as a review and to reduce the frequency of reviews. Additionally, if the City's contracted facilities are required to report heavily contaminated and rejected loads with route level information, CalRecycle should allow this to suffice as an option in-lieu of performing a route review of bins.</p> <p>LASAN looks forward to working with CalRecycle to design contamination compliance options that meets CalRecycle's objectives while maintaining affordable costs of service to both our residents and businesses while maximizing diversion.</p>	Comment noted, also, CalRecycle has revised section 18995.1 in response to this comment. Section 18995.1 was revised to include the option of conducting route reviews or waste composition studies to meet the container contamination minimization requirements. If the jurisdiction chooses to conduct waste composition studies and contaminants exceed the allowed 25 percent, the jurisdiction shall notify all generators on the sampled hauler route or perform a targeted route review. This allows the jurisdiction flexibility if jurisdiction finds it difficult to have precise tracking for route reviews if hauler change, the facilities should stay consistent. Route reviews are to be conducted annually to verify compliance with Section 18984.9(a) that organic waste generators are subscribing to and complying with organic waste collection services or self-hauling organic waste. A jurisdiction shall conduct a sufficient number of route reviews of entities to adequately determine overall compliance. Section 18994.2 was revised to remove the reporting requirements related to self-haulers, such as the number of self-haulers approved and the amount of source separated organic waste self-hauled.
3384	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>General Flexibility</p> <p>The LTF appreciates CalRecycle staffs efforts to meet with stakeholders and consider comments on these complex proposed regulations. The SWANA LTF and our members participated in the pre-rulemaking workshops and provided written comments on past drafts. Our organization and members have repeatedly echoed one major theme throughout this process, and that is the need for jurisdictional</p>	Comment noted. Commenter is expressing an opinion on the overall regulatory scope and model. CalRecycle is using the model in the proposed regulations due to the ambitious organic waste diversion mandates from the Legislature that were required on a very short timeline and thus requirements must be more stringent that those used, for example, in AB 939 that allowed a substantially longer period to achieve diversion targets.

Comment Number	Received From	Question/Comment	Response(s)
		flexibility. Our strong preference, and we think the far more effective approach to securing emission reductions, would be for the department to adopt a performance-based approach to these regulations. The proposed regulations continue down a very prescriptive path.	
3385	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Loadchecking Requirements</p> <p>There are five activities that require loadchecking. Most requirements between type are identically or very consistent. Some comments that apply to all loadchecking requirements are discussed here and apply to:</p> <ul style="list-style-type: none"> • Article 6.2 Operating Standards., Section 17409.5.7. Loadchecking - Contamination in Source Separated Organic Waste • Section 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream • Article 5.0. Composting Operation and Facility Siting and Design Standards • Article 2.0. Siting and Design, Section 17896.25.1. Loadchecking - Contamination in Source Separated Organic Waste • Article 4. CalRecycle-Controls. §20901. CalRecycle-Loadchecking Contamination in Source Separated Organic Waste <p>General comments applicable to all types are:</p> <ul style="list-style-type: none"> • Will This proposed language requires one loadcheck for every 500 tons but two loadchecks if less than 500 tons are received. This is confusing since a facility with 499 tons or less is required to conduct two loadchecks but if 500 to 999 tons are received only one loadcheck is required. • The allowance for an EA to approve an alternative frequency for loadchecking includes a requirement for the EA to determine that the incoming material from the source separated organic waste collection stream does not contain any remnant organic material. "Any remnant organic material" is an impossible threshold. One thimble full of organics would disqualify an alternative. The standard should be changed throughout all loadchecking requirements to a quantifiable number. • Similarly, attempting to identify the amount of visible remnants organic materials lacks specific criteria. This standard should also be changed to a quantifiable number • There are several inconsistent loadcheck requirements between the types and are included in the table below: • In-vessel, landfills and disposal sites only need one random load check per each source sector; whereas, the others are daily. It is not clear why these are different. • Landfills and disposal site are required to keep records of loads with contamination that exceeds 10% whereas other types are required to keep records of any visual contamination. The 10% threshold should be used of all loadcheck records so that every gum wrapper is not reported. • Section 17409.54.11 requires the loadcheck for visible remnant organic matter. 	A jurisdiction's designee can place labels on the containers.

Comment Number	Received From	Question/Comment	Response(s)
		<ul style="list-style-type: none"> It is not clear why Section 17409.5.11 loadchecks are not required to be conducted in the presence of the EA when requested. Additional comments specific to each type are presented further down.	
3386	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream This section does not require "The operator shall conduct a loadcheck in the presence of the EA when requested" as required of the other types of activities requiring loadchecks.	The regulations already apply to all containers provided by a hauler, including temporary dumpsters. The regulations specify that all containers provided by a hauler must meet both the container color and container label requirements by 2036. However, the regulations do allow for either the lid or the body to meet the color requirement.
3387	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Article 5.0. Composting Operation and Facility Siting and Design Standards Section 17867. General Operating Standards. (a)(4)(E)(2) The allowance for an EA to approve an alternative frequency for loadchecking includes a requirement for the EA to determine that the incoming material from the source separated organic waste collection stream does not contain any remnant organic material. "Any remnant organic material" is an impossible threshold. One thimble full of organics would disqualify an alternative. The standard should be changed to less than one percent (used in existing composting requirements) or a more reasonable number.	With respect to compactors owned by private businesses and not the hauler, the containers may conform with either the container color requirements or the container label requirements.
3388	Zetz, E., SWANA -- CA Chapters Legislative Task Force	The SWANA LTF supports the application of consistent terminology across the statutory and regulatory paradigms impacting our operations, and we would respectfully urge CalRecycle to maintain consistency in the legal definitions for terms used in the various regulations. Having different legal meanings for important operational terms, such as "organic waste", will be quite confusing for our members on an operational level.	Comment noted. Commenter requests consistent terminology across various programs. CalRecycle notes that regulatory terms may need to be slightly different from program to program to accommodate the differences in various programs and the manner in which certain terms are applied. This may obstruct the ability to always have consistent definitions from program to program.
3389	Zetz, E., SWANA -- CA Chapters Legislative Task Force	(36) "Jurisdiction" -The definition includes "special districts that provide solid waste handling services". There is no definition of "solid waste handling services" contained in the proposed regulations; however, this phrase is defined in two sections of the Public Resources Code: PRC 40195 - "the collection, transportation, storage, transfer, or processing of solid wastes" PRC 49505 - "the collection, transportation, storage, transfer, or processing of solid waste for residential, commercial, institutional, or industrial users or customers." The problem is that some special districts provide some of those services but not all of them. Some special districts do not provide collection services to the public (either directly or via contract or franchise). Because of this we request that the proposed regulations be modified to only apply the requirements intended for jurisdictions to those special districts that provide services that a "jurisdiction" (as defined in the PRC Section 40145) otherwise provides. In conclusion, we recommend that the definition of jurisdiction be harmonized with Public Resources Code Section 40195. We would again urge the department to consistently define terms to avoid confusion in implementation of the department's various rules and regulations.	Thank you for the comment. CalRecycle revised the definition of 'jurisdiction' in Section 18982(a)(36) because the original term "handling" as used in the definition is overly broad. This change is necessary to provide clarity.

Comment Number	Received From	Question/Comment	Response(s)
3390	Zetz, E., SWANA -- CA Chapters Legislative Task Force	42) "Non-local entity" - We believe that special districts are "under the control of local jurisdiction regulations related to solid waste", and we do not believe that it is necessary to include special districts in this definition. In our last comment letter dated My 16, 2018 we noted that it would be positive to add "public universities and community colleges" back into this definition, so we support the addition of "public universities" in the proposed regulations but think "community colleges" should be specifically listed as well.	<p>In response to this comment, CalRecycle defined a "special district" as having the same meaning as Section 41821.2 of the Public Resources Code.</p> <p>Special districts can be jurisdictions or non-local entities depending on the nature of the district and its activities. There are special districts that oversee waste collection services. Accordingly, the definition of jurisdiction was amended to note that a "special district that provides solid waste collection services" is a jurisdiction.</p> <p>Additionally, a special district could be a non-local entity. Non-local entities are specifically defined as entities that are organic waste generators but are not subject to the control of a jurisdiction's regulations related to solid waste. The definition of "non-local entity," lists special districts as an example of a type of entity that could be a "non-local entity" but it does not definitively state that all special districts are non-local entities. Any special district that is a "jurisdiction" and also a "non-local entity" generator would be subject to enforcement by the Department for violations of generator requirements in Chapter 12 unless requirements are waived under Section 18986.3. CalRecycle revised the definition of 'jurisdiction' in Section 18982(a)(36) because the original term "handling" as used in the definition is overly broad. This change is necessary to provide clarity. The definition for non-local entities includes public universities and community colleges.</p>
3391	Zetz, E., SWANA -- CA Chapters Legislative Task Force	(46) "Organic waste" -We again reiterate the operational important of having consistently applied terms, especially a term as important and commonly used as "organic waste". The proposed regulations advance a definition that is both impractical and inconsistent with existing definitions of the same term. As stated during the pre-rulemaking workshops and comments, the SWANA LTF strong believes that the definition of "organic waste" should be consistent to reduce operational confusion. We do not believe the definition should include items like organic textiles and carpets, biosolids, digestate, and sludges. Carpet, for example, can be made of many different materials and the general public is not going to accurately differentiate between various types of carpet for purposes of compliance with these rules.	<p>Comment noted. CalRecycle disagrees that the definition of organic waste is too broad, or should be limited to the types of organic waste included in the definition used in AB 1826. SB 1383 requires CalRecycle to reduce the disposal of organic waste. These reductions are required as a means of achieving the methane emission reduction targets of the SLCP Strategy. AB 1826 only requires that collection services be offered to commercial businesses. SB 1383 requires the state to reduce the disposal of organic waste that is landfilled, it is a substantially broader legislative mandate and requirement. Organic waste that break down in a landfill and create methane must therefore be included in the regulatory definition, including organic waste that are not generated by commercial businesses. Organic waste defined in the regulation are subject to specific requirements (e.g. collection, sampling etc). These requirements are necessary to achieve the purpose of the statute.</p> <p>The definition of organic waste employed in these regulations is specific to the purpose and necessity of this regulation. Regulations adopted by other agencies or codified in other portions of statute, can employ a different definition for a different purpose.</p>
3392	Zetz, E., SWANA -- CA Chapters Legislative Task Force	(55) "Prohibited container contaminants" -This definition contains unnecessary items like carpet, hazardous wood, and non-compostable paper that could just be excluded from the definition of organic waste instead of included in this definition. It is also unclear what facilities should do with textiles.	Comment noted. Simply excluding these terms from the "organic waste" definition will not sufficiently address the need to define terms that are used in the regulations. Since "prohibited container contaminants" is a regulatory term, it requires definition.
3393	Zetz, E., SWANA -- CA Chapters Legislative Task Force	(66) "Self-hauler" -The purpose of creating this definition is unclear, particular considering how the term is used in Article 13. As defined, "Self-hauler" is so broad that could describe nearly every resident, business, government facility or other entity in California. For example, it would include a person who transported their own empty beverage containers by foot, bicycle or auto to a CRV redemption center. We ask that CalRecycle consider whether this definition is even needed. If	The "back-haul" definition is intended simply to clarify a portion of the definition of "self hauler" and the definition itself is not the appropriate mechanism to place specific requirements on how self-hauling or back-hauling is conducted. Furthermore, Public Resources Code Section 40059(a)(1) specifically places aspects of solid waste handling which are of local concern, such as means of collection and transportation, within the local control of counties, cities, districts, or other local governmental agencies. In addition, SB 1383 (in Public Resources Code Section 42654) specifically states that nothing in these regulations abrogates or limits the authority of local

Comment Number	Received From	Question/Comment	Response(s)
		so, please revise the definition and how it is used in Article 13 to clarify the state's interest in gathering information on self-haulers.	jurisdictions to enforce local waste transportation requirements. Commenters asked CalRecycle to consider whether the definition of self-hauler is needed since it is so broad. If it is needed, the definition needs to be revised and it needs to be clarified on how the Department will be getting information from jurisdictions about the self-haulers. Section 18994.2(f)(4) regarding reporting on the number of self-haulers by the jurisdiction was deleted. However, the definition in Section 18982(a)(66) is still needed.
3394	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Article 2. Landfill Disposal and Reductions in Landfill Disposal We are supportive of changes that we asked for in our prior communications, namely the allowance of approved Material Recovery Fines as Alternative Daily Cover (ADC) or Alternative Intermediate Cover (AIC). As stated in our prior comments, these materials have no reuse market and should therefore not be counted as disposal when being put to a beneficial use.	The language regarding Material Recovery Facility fines was removed in later regulatory drafts.
3395	Zetz, E., SWANA -- CA Chapters Legislative Task Force	(B) Detailed explanation of each of the processes or technologies proposed by the applicant for use to reduce landfill disposal -In the case of a process that produces a low carbon energy, fuels or chemicals from residual solid waste, the production of the product is generally separate and distinct from the end use of the energy, fuels or chemicals to produce energy. In most cases the person operating the fuel production process is separate and distinct from the person utilizing the fuel. Which of these parties is the applicant and is the applicant responsible for providing information about both the fuel production process as well as the fuel utilization process in the industrial furnace? Further, while the owner/operator of the fuel production process may remain unchanged, the use of the fuel may change from time to time for a variety of factors. How is the owner/operator of the technology process able to represent all potential future users of the product from the technology? For example, each industrial furnace operator may have different specification requirements for the fuel provided to each different furnace. We recommend that the principle applicant under these regulations be the owner/operator of the fuel production unit that would likely, but not necessarily, located at a permitted solid waste facility. The O/O would provide specific information about the operation of the fuel production unit as well as known information pertaining to the intended end use of the fuel in cooperation with a proposed known end user or users. Additional generic information about future alternative end users could also be provided. If new end users are added in the future within the constraints of the generic information in accordance with these regulations, no further action would be required - other than to ensure that the end user has separately complied with all appropriate permitting requires (e.g., becoming permitted as an EMSW facility in accordance with CalRecycle regulations).	A change to the proposed regulation to specify who the applicant for a determination of reduction in landfill disposal for a technology or process must be is not necessary because it would unnecessarily limit who could apply. The purpose of Section 18983.2 of the regulation is to approve technologies and processes that count as a reduction in landfill disposal, not to approve applicants themselves. As long as the applicant has all the information necessary to meet the requirements of Section 18983.2(a), and submits that as part of its application CalRecycle staff, in consultation with CARB staff, will review the application.
3396	Zetz, E., SWANA -- CA Chapters Legislative Task Force	(C) For each process or technology noted in Section 18983.2(a)(1)(B), the mass in short tons of organic waste, differentiated by type, that will be processed each year. For mixed organic waste, the mass in short tons of the various types of organic waste shall be determined based on an annual waste characterization study - The term "differentiated by type" is not clear. The Waste Classification Material type	CalRecycle has revised section 18983.2(a)(1)(C) in response to this comment. The changes specify the eleven categories of organic waste type into which applicants differentiate organic waste that will be processed by the proposed process or technology noted in the application. The change is necessary to narrow the number of categories of organics and be specific as to which organics types must be reported.

Comment Number	Received From	Question/Comment	Response(s)
		<p>listing on CalRecycle1s website contains definitions for material types used in recent CalRecycle waste characterization studies. Waste and diversion streams are divided into 68 distinct material types, grouped into 10 different categories. In general, categories contain types made of the same base material like paper, glass, or organics. However, some organic-based materials are in other categories such as wood waste {Inerts and Other category), and compostable paper (Paper category). We recommend that as much specificity be provided by the applicant based on historical information regarding the waste streams intended for use (e.g. from a particular MRF). However, breaking waste into 93 category types may not be practical. This is particularly true as waste material types can changed from time to time based on changes in consumption patterns. On the other hand, broad material categories may not provide sufficient information about the nature of the waste being processed into industrial fuel. The ISOR states that, "This section is necessary because information regarding the amount of organic waste is needed by type to allow ARB and CalRecycle to most accurately estimate the potential greenhouse gas emission reductions from the proposed recovery activity.11 Based on this, the 0/0 of the technology would provide sufficient description of the material types as necessary to "accurately calculate11 the potential GHG emission reductions from the proposed recovery activity. This could be more than 10 broad categories, but less than 93 specific material types.</p> <p>The second sentence discusses mixed organic waste and requires that a waste characterization study be performed annually on the material being processed to produce energy, fuels or chemicals. We support this requirement and suggest that the waste characterization study of the mixed waste to be processes into energy, fuels and chemicals be conducted in a manner "consistent with" CalRecycle1s Waste Characterization Study as provided at: https://www2.calrecycle.ca.gov/WasteCharacterization/General/UniformMethod</p>	<p>These categories of organic waste are modified from those included in CalRecycle’s Standard List of Material Categories and Types under the heading “Other Organics” as well as some categories listed under the regulation’s definition of “Organic Waste.” CalRecycle chose these categories because they represent major categories of organic waste that are most likely to have different sources and greenhouse gas emission factors. Further categories are not necessary because they would offer no additional information about the estimated greenhouse gas emissions and emission reductions of the technology or process.</p> <p>The commenters also suggest standardizing the characterization of mixed organic waste using CalRecycle’s Uniform Waste Disposal Characterization Method1 as this standard. However, CalRecycle determined that it was not necessary to require this level of detail and removed the sentence to which the commenters referred.</p>
3397	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>(D) For any residual material produced from the proposed process or technology, a description of each end use or disposal location to which the residual material will be sent. For each end use or disposal location, the applicant must submit the expected mass in short tons and characteristics of the residual material - The term "end use or disposal location" is not clear. The whole purpose of these regulations is to support diversion of solid waste from landfill disposal. If energy, fuels and chemicals are produced from residual solid waste, the fuel is no longer subject to landfill disposal. Rather it will be send to an end user for that energy, fuel or chemical. Further, it may not be known at the time of application pursuant to these SB 1383 regulations all of the specific end uses to which the product may be delivered. We hope that a general description of the "end use" and generic performance attributes will be sufficient. Of course, any known specific end uses can be provided at the time of application. This would be consistent with our comments on paragraph (B) above. As long as any new end use after the original application is consistent with the generic end use and performance characteristics</p>	<p>CalRecycle has revised section 18983.2(a)(1)(D) in response to these comments. The changes remove the word “residual” from this subsection to clarify that the greenhouse gas emissions and emissions reduction potentials calculated pursuant to section 18983.2(A)(1)(E) must include emissions and emissions reductions of all materials produced from the process, whether they be send to a beneficial use or disposed of. The change is necessary to clarify the scope of emissions and emissions reductions calculations intended in section 18983.2(a)(1)(E).</p> <p>The commenters note that the purpose of reporting on “end use or disposal location” is unclear because “[t]he whole purpose of these regulations is to support diversion of solid waste from landfill disposal.” While staff agree that the purpose of these regulations is to support diversion of solid waste, it is possible and likely that processes and technologies that are designed to reduce organic waste disposal in landfills will result in additional materials that have an end use or require disposal following the proposed process or technology. The greenhouse gas emissions of those materials must be considered to fully evaluate the emissions reduction potential of the process or technology.</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>that would be sufficient to allow that new end use under the original application. Any changes or new uses that are outside the original end use would require an amended application.</p> <p>Further, what is the meaning of the term "residual material"? Does this have the same meaning as "residual organic material" as defined in these regulations or is it broader than just organic residual material? Does this mean any residual material produced by the process that may include product, by-products and waste. Or, does the term refer to any waste residuals that require disposal after the process is complete? Further clarification of the meaning of the term "residual" as used here would be helpful.</p>	<p>CalRecycle understands that applicants for determinations of technologies that constitute a reduction in landfill disposal will not know every specific end use and disposal fate of materials for each process or technology, but CalRecycle expects applicants to sufficiently describe expected end uses and disposals such that staff can evaluate the emissions and emissions reduction of the process or technology. The comment is correct that, because the processes and technologies will be evaluated from a lifecycle emission basis, different end uses may lead to different determinations for approval.</p>
3398	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>E) For each of the processes or technologies described pursuant to Section 18983.2(a)(1)(B), each calculation, assumption, and emission factor used by the applicant to calculate the permanent greenhouse gas emissions reduction potential of the proposed operation. All calculations must be clearly laid out such that the Department and/or the Executive Officer of the California Air Resources Board (CARB) are able to follow and understand the calculation of greenhouse gas emissions reduction potential. Calculations must include quantification of the greenhouse gas emissions produced from the process or technology itself, including those emissions from any residual material-We agree and support the provisions of this paragraph. However, we do request further confirmation of our understanding of the following phrase in the last sentence:</p> <p>"greenhouse gas emissions produced from the process or technology itself, including those emissions from any residual material." It would be the intent to provide a description of any and all GHG emissions and reductions from any waste material that is introduced into the energy, fuel or chemical production process. Further, it would be the intent to fully describe any and all GHG emissions and reductions that occur due to the use of the energy, fuels or chemicals produced by the technology- as well as from any residuals or by products. In essence, a lifecycle GHG assessment would be required for the full process and end use of any products, by-products or waste materials. This could occur at the location at which the technology is located as well as at separate locations that separately utilize the produced energy, fuels or chemicals. The largely biogenic material will substantially reduce GHG emissions at both the landfills from which the biogenic waste is diverted as well as at the end use location that have previously used more carbon intensive energy, fuels or chemicals. Your confirmation of this understanding in the response to comments and the FSOR would be greatly appreciated.</p>	<p>CalRecycle added definitions for "greenhouse gas" and "fluorinated greenhouse gas" to clarify what greenhouse gases are considered under the regulation and added a definition for "greenhouse gas emission reduction" to clarify how an emission reduction is calculated. The "greenhouse gas," "greenhouse gas emission reduction," and "fluorinated greenhouse gas" definitions are the same as those definitions used in CARB's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for "lifecycle greenhouse gas emission" was modified from a similar definition in CARB's Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify 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 emission and emissions reductions will be considered by CalRecycle in making the determination.</p>
3399	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>(F) For each emission factor used pursuant to Section 18983.2(a)(1)(E), documentation demonstrating that the emission factor has been peer reviewed or subjected to other scientifically rigorous review methods.</p> <p>SWANA would appreciate receiving confirmation that these regulations not only require accounting of GHG emissions, but also GHG emission reductions. For example, diversion of organics from a landfill will have a landfill methane reduction</p>	<p>CalRecycle added definitions for "greenhouse gas" and "fluorinated greenhouse gas" to clarify what greenhouse gases are considered under the regulation and added a definition for "greenhouse gas emission reduction" to clarify how an emission reduction is calculated. The "greenhouse gas," "greenhouse gas emission reduction," and "fluorinated greenhouse gas" definitions are the same as those definitions used in CARB's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for "lifecycle greenhouse gas emission"</p>

Comment Number	Received From	Question/Comment	Response(s)
		<p>similar to composting, due to the reduction of methane emissions associated with landfilling. In addition, if the largely biomass produced energy, fuels and chemicals is used to displace the use of higher carbon intensity fossil derived energy, fuels and chemicals (e.g., coal, tires, etc.) would be allowed to count the emission reduction associated with converting from high GHG emission fossil products to lower carbon products. The GHG emission reduction will be the combination of both the landfill methane reductions plus the reduction in displaced fossil carbon fuel emissions. Of course other emissions/reductions associated with the overall process and product use would have to be counted as well.</p>	<p>was modified from a similar definition in CARB's Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify 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 emission and emissions reductions will be considered by CalRecycle in making the determination.</p>
3400	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>{2}The Department shall consult with CARB's Executive Officer to evaluate if the information submitted by the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed operation, and whether or not the proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal -A clear interpretation of the following phrase as it relates to the diversion of organic waste from landfill disposal to be used as a source of low carbon fuels is requested, " ... proposed operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal." SWANA's interpretation is that overall GHG reductions (e.g., both anthropogenic methane, anthropogenic CO2, and other GHGs) can be counted under this provision. The would include both: 1) the reduction in methane emissions associated with the diversion of organic solid waste from landfills, and 2) reduction in anthropogenic CO2 due to use of the produced energy, fuel and chemicals to reduce fossil CO2 emissions. Although use of the technology product to displace use of higher carbon fossil products is not directly associated with landfill diversion, it does result in a permanent reduction in GHG emissions in accordance with the above paragraph. SWANA would appreciate confirmation that all GHG reductions associated with a particular operation are considered to "count as a reduction in landfill disposal". This would include GHG emission directly related to the landfill diversion the waste, but also other beneficial GHG reductions associated with the use of the diverted waste product. It is our view that the overall reduction in GHG emissions associated with a particular operation should be counted as diversion from landfill disposal - both the avoided landfill emission as well as emission reduction associated with the use of the products of the operation. It is our view that this is similar to the benefits of composting that consider both the diversion of organics from a landfill resulting in reduced methane emissions as well as reduction in GHG emissions associated with fertilizer production. It is our understanding that this is the basis for the 0.30 MTCO2e/short ton organic waste that is used for comparison with alternative verified technologies pursuant to these regulations. SWANA would appreciate confirmation of this understanding in the response to comments and the final Statement of Reasons.</p>	<p>CalRecycle added definitions for "greenhouse gas" and "fluorinated greenhouse gas" to clarify what greenhouse gases are considered under the regulation and added a definition for "greenhouse gas emission reduction" to clarify how an emission reduction is calculated. The "greenhouse gas," "greenhouse gas emission reduction," and "fluorinated greenhouse gas" definitions are the same as those definitions used in CARB's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for "lifecycle greenhouse gas emission" was modified from a similar definition in CARB's Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify 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 emission and emissions reductions will be considered by CalRecycle in making the determination.</p>

Comment Number	Received From	Question/Comment	Response(s)
3401	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>(3) To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department and/or CARB's Executive Office shall compare the metric tons carbon dioxide equivalent {MTCO2e} per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste (0.30 MTCO2e/short ton organic waste). The Department shall only deem a proposed operation to constitute a reduction in landfill disposal if the process or technology has permanent greenhouse gas emissions reductions equal to or greater than the 0.30 MTCO2e/short ton of mixed organic waste -The numeric factor in the above paragraph is expressed differently in 2 different locations in the above paragraph: 0.30 MTCO2e/short ton organic waste 0.30 MTCO2e/short ton of mixed organic waste</p> <p>SWANA would appreciate it if CalRecycle can clarify how these two different expressions are used and are related to each other with the inclusion of the term "mixed waste" in the second, but not in the first.</p> <p>It is our understanding that the 0.30 MTCO2e/short ton organic waste is based on both the reduction in landfill methane emission as well as the avoided GHG emissions due to the reduced use of manufactured fertilizers to sustain the growth of plants. For purposes of clarity, it would be helpful for the response to comments and the Final SOR to clearly show how the 0.30 MTCO2e/short ton organic waste factor was derived - showing all the terms that were used to calculate this factor as well as their sources. Unfortunately, such more detailed computations appear to be missing from the ISOR.</p> <p>In addition, the phrase "permanent greenhouse gas emissions reductions equal to or greater than the 0.30 MTCO2e/short ton of mixed organic waste" is assumed to include all GHG reductions associated with a particular operation to produce and use an alternative product from waste diverted from landfill disposal. These GHG reductions include both those reduction directly associated with reduced landfill methane emissions as well as GHG reductions associated with the beneficial use of a product (energy, fuels or chemicals) produced by the process or technology.</p> <p>In Section 18983.2(a)(3), approval of a proposed process or technology depends entirely on a pass/fail conclusion that the process or technology results in GHG emissions reductions equal to or greater than 0.30 MTCO2e per ton. This methodology may block the use of valuable technologies that targeted the most problematic items--those that do not compost well. For example, a technology that targeted diversion of source-separated organic carpet or lumber, items with lower potential to emit carbon but which we still want to divert from disposal, could easily fail to pass the 0.30 MTCO2e hurdle. This would discourage use of otherwise valuable diversion methods and make it harder to meet the SB 1383 organics diversion goals. We suggest revising this section to provide the CalRecycle Director discretion in approval of processes and technologies. IDENTICAL 3178</p>	<p>CalRecycle has revised section 18983.2(a)(3) in response to this comment. The change removes the word "mixed" from the phrase "mixed organic waste." This change is necessary to clarify that the assessment is being performed relative to the greenhouse gas emissions per short ton organic waste being processed.</p> <p>Several commenters suggested using avoided landfill emissions as the benchmark in the determination of processes or technologies that constitute a reduction in landfill disposal. Although this proposal might increase diversion of organics from landfills, it would not achieve the greenhouse gas emissions reductions required to meet the methane reduction target required by SB 1383 or the organics diversion targets specified in the Short-Lived Climate Pollutant Reduction Strategy. The benchmark value of 0.30 MTCO2e per short ton organic waste was set to ensure emission reductions for any new process or technology are comparable to the emission reductions necessary to achieve the strategy's emission reduction goal of 4 MMTCO2e for this sector.</p> <p>CalRecycle added definitions for "greenhouse gas" and "fluorinated greenhouse gas" to clarify what greenhouse gases are considered under the regulation and added a definition for "greenhouse gas emission reduction" to clarify how an emission reduction is calculated. The "greenhouse gas," "greenhouse gas emission reduction," and "fluorinated greenhouse gas" definitions are the same as those definitions used in CARB's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The definition for "lifecycle greenhouse gas emission" was modified from a similar definition in CARB's Low Carbon Fuel Standard Regulation. These definitions are necessary to clarify 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 emission and emissions reductions will be considered by CalRecycle in making the determination.</p> <p>Several stakeholders submitted comments that indicate confusion about how the 0.30 number was calculated. To provide greater clarity, staff provide a detailed description about the calculation of this number in the guidance doc included in the record</p>

Comment Number	Received From	Question/Comment	Response(s)
3402	Zetz, E., SWANA -- CA Chapters Legislative Task Force	We again stress the concept of flexibility for jurisdictions. The regulations are extraordinarily prescriptive and take a "command and control" type of approach. Jurisdictions are going to need flexibility, and we would recommend that the department take a more performance-based approach to the regulations. For example, "Alternative 4" that would allow jurisdictions to take a more performance-based approach could be supported by SWANA	Comment noted, CalRecycle amended the draft regulatory text to include a performance-based source separated organic waste collection service provision.
3403	Zetz, E., SWANA -- CA Chapters Legislative Task Force	One issue that is not addressed in the regulations is inclusion of food waste in containers where there is a known issue with bears. This is a very real issue that should be addressed in terms of a waiver for collection of food waste.	CalRecycle added Section 18984.12(d) in response to this comment. The changes will allow jurisdictions located at or above 4,500 feet apply for a waiver from the food and food soiled paper organic waste collection requirements. Jurisdictions would also be waived from providing containers to their generators. This waiver would apply for residential and small commercial generators that are not regulated by AB 1826. As the commenter noted, jurisdictions 4,500 feet and above face specific waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitat. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This change is necessary to prevent a public safety issue that food waste separation and recycling can pose. Generators in high-elevation jurisdictions will be able to continue to use customer provided containers that fit in their locked bear boxes. Jurisdictions that qualify for this waiver, however, will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection. This comment argued that the limited space of locked bear boxes, which this commenter's jurisdiction uses to secure garbage bins, creates a capacity issue. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, nothing prevents the jurisdiction from providing smaller containers that could fit inside bear boxes.
3404	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section 18984.12(a) Low population waivers - Section (a)(1) allows rural jurisdictions that were exempt under AB 1826 additional time to implement these proposed regulations since it would be impossible for these exempt jurisdictions to implement these SB 1383 regulations immediately after their AB 1826 exemption expires. This allowance is appreciated. Section (a)(2) allows low population areas in unincorporated portions of the county to be eligible for a waiver. The use of census tracts in unincorporated areas seems to work for rural areas although the proposed requirement should reference a time reference and source for the density determination. Although this population density by census tract does work for many areas, there needs to also be an allowance to add additional low population areas that are less than the SO people per square mile but are still within a census tract that is larger than SO. Many census tracts are established along natural features like rivers and artificial structures like roads. There are many census tracts where the population is located on the fringe of the census tract but most of the census tract is under the SO-population density. These low population areas may not even have contracted collection services and the roads are not designed to withstand vehicle traffic. This waiver process should also allow for inclusion of other low population areas that are not included in the census tract designations.	CalRecycle revised Section 18984.12(a) regarding low-population waivers for areas that lack collection and processing infrastructure, specifically to include cities with disposal of less than 5,000 tons and total population of less than 7,500, and census tracts in unincorporated areas of a county that have a population density of less than 75 people per square mile. Making these changes results in an increase of 0.5% in the amount of organic waste disposal that is potentially exempted. CalRecycle also added a new subsection (d) regarding waivers for specified high-elevation areas where bears create problems with food waste collection containers. CalRecycle initially proposed allowing waivers only for incorporated cities that disposed of less than 5,000 tons of solid waste in 2014 and that had a total population of less than 5,000, and for unincorporated areas of a county that had a population density of less than 50 people per square mile. Under these provisions, if waivers were granted to all eligible entities, then the total amount of organic waste disposal that would potentially be exempted would be 3.6% of total organic waste disposal in the state. Numerous stakeholders suggested revisions to this section to expand the number and type of areas eligible for these waivers. In response, CalRecycle analyzed how allowing one or more of the following to be eligible would impact organic waste disposal: 1) cities with disposal of less than 5,000 tons and total population of less than 7,500 or 10,000; 2) cities with disposal of less than 5,000 tons but with no population limit; 3) census tracts in unincorporated areas of a county that have a higher range of population densities (e.g., 75, 100, 250 people per square mile); 4)

Comment Number	Received From	Question/Comment	Response(s)
			<p>jurisdictions with populations > 5,000 people and that are low-income disadvantaged communities with no organic processing facilities within 100 miles; 5) cities that are entirely disadvantaged communities under CalEPA's definitions (see https://oehha.ca.gov/calenviroscreen/sb535); 6) areas with less than 50 people per square mile but which are located within a census tract with greater than 50 people per square mile; and 7) rural areas as defined under Section 14571(A) of the California Beverage Container Recycling and Litter Reduction Act.</p> <p>As noted above, CalRecycle revised Section 18984.12(a) to include two of the recommended alternatives. However, most of the other alternatives would result in much large amounts of organic waste disposal being potentially exempted. For example, replacing the existing rural waiver with one based on Section 14571(A) or increasing the census tract threshold to 250 to 500 people per square mile would both result in much greater amounts of tons of organic waste disposal being potentially exempted. CalRecycle also did not accept the proposed alternative to only use the <5000 tons threshold because all of the affected jurisdictions have organics processing facilities within 100 miles. CalRecycle also did not accept the proposed revision to allow submittal of reasonable jurisdiction-proposed alternatives, because this is too open-ended and it was not clear what the basis would be for evaluating the reasonableness of such proposals. Absent clear objective standards the proposal is unworkable. Lastly, CalRecycle did not accept the proposals to allow waivers for all disadvantaged communities, because many of these communities are located in urban areas where collection and processing is readily available, and this would exempt a substantial portion of the organic waste stream.</p> <p>The established elevation allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. CalRecycle analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. Allowing an elevation waiver on case by case basis or for jurisdictions with a well-documented history of animal instruction is not quantifiable, therefore the Department cannot determine if this waiver would impede achieving the goals mandated by SB 1383. CalRecycle compared the map of jurisdictions eligible for the elevation, low population, or rural waivers and found it to overlap considerably with the Department of Fish and Wildlife's black bear habitat map. CalRecycle understands that bears and other wildlife do not adhere strictly to elevation thresholds. CalRecycle, however, had to set an elevation threshold in order to quantify the organic waste that would not be diverted from landfills with this waiver. Quantifying the amount of waiver organic waste diversion was critical in order to determine if the waiver would impede achieving SB 1383's organic waste diversion and greenhouse gas reduction goals. Many census tracts in the counties the comment identifies will be eligible for other exceptions granted by CalRecycle. Additionally, the elevation waiver is limited in scope and jurisdictions that qualify for this waiver will still be subject to other 1383 requirements, including procurement, edible food recovery, and other types of organic waste collection.</p> <p>Allowing submittal of jurisdiction-proposed alternatives is too open-ended and it is not clear what the basis would be for evaluating the reasonableness of such proposals.</p>

Comment Number	Received From	Question/Comment	Response(s)
3405	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section (b) only allows the waiver for a period of two years. This is an extremely short period of time given the time needed to determine the efforts to implement organics programs in that area and submit an application for a waiver. CalRecycle has 90 days to review and approve the waiver. A two-year time limit will essentially require a jurisdiction to spend effort to start the application for an additional waiver upon approval of the waiver. It is unlikely that circumstance in these low population areas will change within two years. We recommend a five-year cycle for renewal of these waivers.	CalRecycle agrees that most low-population areas that are granted a waiver by CalRecycle are likely to remain as qualifying low-population areas for longer periods of time; allowing a waiver to be operational for a longer period of time is warranted and will reduce the costs of compliance. CalRecycle has made a language change in response to this comment. After the change was made, commenters were in support that low population waivers are good for five years instead of two.
3406	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section 18984.8 Container Labelling Requirements - We support the changes from prior versions of the regulations, which would have required existing containers to be labelled. Per our prior comments, we believed that requirement to be excessively expensive and unworkable on a practical level. The proposed regulations only require labelling of new containers, and we support this change.	Thank you for the comment. The comment is in support of the current language.
3407	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section 18984.7 Container Color Requirements - The new language on container colors is still very prescriptive, but more reasonable. Color of the lid, not the cart body is stressed, and the deadline for statewide conformance is pushed out to 2032.	CalRecycle has revised the definitions of the containers to be consistent with each other. Also, thank you for the comment related to the increased flexibility regarding the color and hardware of the containers. Also, the deadline was revised to Jan. 1, 2036.
3408	Zetz, E., SWANA -- CA Chapters Legislative Task Force	For dual stream programs specify different colors for containers and paper, not just "blue" for recycling	CalRecycle revised Section 18984.7(a) in response to this comment to clarify that jurisdictions have to provide containers for the collection service that the jurisdiction implements for organic waste generators, not the indoor bins of businesses. Sections 18984.1(a)(6)(B) and (C) and 18984.2(d)(1) do not require that only light and dark blue be used for a split container; they allow any color not already designated for other materials specified in this section to be used for the split container. Additionally, if the color is an issue in this circumstance, the business can use labels instead. CalRecycle will clarify in the FSOR that Section 18984.9(b), which allows a commercial business to provide containers that comply with either the color or the labeling requirements, applies to Section 18986.1 and Section 18986.2.
3409	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Yellow is the color for food scraps, but we find that residents prefer brown lids because they show less dirt.	CalRecycle responded to stakeholders who initially had issues with the container color being yellow because yellow containers will quickly become discolored and unattractive if used for the collection of food waste; and yellow coloration does not hold up well in UV conditions. Therefore, brown was chosen because brown coloration shows dirt less; and cart manufacturers can use higher percentages of recycled plastic to make brown versus yellow containers and lids, leading to more market demand for recycled plastic. The jurisdiction would be able to continue to use the brown containers for manure until they reach the end of their useful life or until 2036, whichever comes first.
3410	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Article 6 - Biosolids Generated at a Publicly Owned Treatment Works (POTW) Section 18987.2(a)(2) speaks to sewage sludge and biosolids "not suitable for additional processing or recovery". We would respectfully request that you clarify the regulations to provide guidance on what this means for purposes of compliance. As proposed, Section 18987.2 could be interpreted as a general ban on landfilling biosolids. If this is not the intended result, we would recommend the changes below. If a landfill ban on biosolids is the intent of the regulations then we believe	CalRecycle has deleted Section 18987.2 in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
		<p>the FSOR should provide specific statutory authority for such an action.</p> <p>(a) Biosolids generated at a POTW shall be considered a reduction of landfill disposal if:</p> <p>(1) Transported only to a solid waste facility or operation for additional processing, composting or in-vessel digestion, or other recovery Managed using one of the recovery processes or facilities, either on-site or off-site, as specified in Section 20.1(b) of this Division;</p> <p>(2) Notwithstanding subdivision (a)(1), sewage sludge and biosolids not suitable for additional processing or recovery may be sent for disposal to a permitted facility that can receive that sewage sludge and biosolids and has obtained the applicable approvals by the regional, state, and federal agencies having appropriate jurisdiction.</p>	
3411	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Article 7. Regulation of Haulers</p> <p>Our prior comments on this portion of the regulations took the position that local jurisdictions should not be put in the position of enforcing this statute against residents that self-haul their organic waste. Unfortunately, the regulations were clarified precisely in the direction that we advocated against. To be clear, those of us implementing these regulations are not clear how we would even accurately identify all the residential self-haulers. Even if we could, we have no reason to believe that they would comply with the record-keeping requirements outlined in the proposed regulations.</p> <p>We would respectfully request that the department take the same approach that it did in the AB 901 regulations and only apply the provisions to commercial self-haulers. Local jurisdictions are not going to be able to enforce this requirement without this change.</p>	<p>Jurisdictions are not required to identify every self-hauler. They are required to adopt an ordinance that requires compliance and provide general education about self-hauler requirements.</p> <p>Many comments noted 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; dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. 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. CalRecycle modified deleted the requirements that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. CalRecycle added a new Section 18985.1(a)(7) to require jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions already are required to provide to all generators. CalRecycle revised Section 18985.1(c) to include all education requirements for single unsegregated collection systems.</p>
3412	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Article 9. Locally Adopted Standards and Policies</p> <p>As proposed, Section 18990.1(b)(2) prohibits a jurisdiction from adopting or enforcing an ordinance, policy, permit condition, etc. that would prohibit organic waste coming from outside the jurisdiction. We strongly object to any regulatory construct that usurps local decision-making authority and forces a jurisdiction to utilize local capacity paid for by local ratepayers for organic waste coming from outside of that jurisdiction. This type of blanket prohibition takes away the ability of local jurisdictions to ensure that their own processing capacity is maintained.</p>	<p>CalRecycle added clarifying language to this section to indicate that Article 9 section 189901 (c) (3) provides that this section does not prohibit a jurisdiction from superseding or otherwise affecting the land use authority of a jurisdiction, including, but not limited to, planning, zoning, and permitting, or an ordinance lawfully adopted pursuant to that land use authority consistent with this section.</p>
3413	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Article 11. Organic Waste Recycling Capacity Planning</p> <p>We would respectfully request that Section 18892.1(c)(2)(A) be amended to include a 60-day timeframe for entities to respond to a jurisdiction. Some timeframe needs to be included for clarity. We would also observe that the reporting timeframes in Section 18992.3 overlap in several cases. It is unclear to us why we would be required to plan and report twice with respect to the same period. Considering the</p>	<p>Thank you for the comment. CalRecycle has revised Section 18992.2(b) to create a new subsection and add the same language in this subsection that is also provided in Section 18992.1(b)(1). In addition, CalRecycle has revised Section 18992.2 by adding a new subsection (Section 18992.2(b)(1)) to add a 60-day requirement for edible food recovery organizations to provide the required information to jurisdictions. CalRecycle also revised the reporting periods such that there is no overlap nor are jurisdictions required to plan and report twice with respect to the same period.</p>

Comment Number	Received From	Question/Comment	Response(s)
		totality of the regulatory requirements, we would appreciate the opportunity to avoid doing the same thing twice unless it's necessary.	
3414	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Article 12. Procurement of Recovered Organic Waste Products</p> <p>While we recognize and support the importance of market development, such efforts must be mandated by legislative authority with associated funding to assist local jurisdictions. There are no provisions in the State statute granting such an authority to CalRecycle, and would respectfully request that the requirement for local jurisdictions to procure recovered organic waste products be eliminated from the proposed regulations.</p>	The SB 1383 statutory language contains a broad grant of regulatory authority to place requirements on jurisdictions to achieve the organic waste diversion targets. CalRecycle determined that the procurement requirements were necessary to achieve these targets by providing end uses for processed organic waste.
3415	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<ul style="list-style-type: none"> For the purpose of this Article, the discussion and the procurement targets need to be expanded to include appropriate provisions for compliance by "non-local entities" (such as state agencies, public universities, etc) and "local education agencies" (such as school districts, community colleges, etc) as further defined in Sections 18982 (a) (42) & (40), respectively. 	<p>Regarding state agencies. State agency procurement is within the purview of the Legislature through the annual budgeting process, the Governor's office through Executive Orders, the Department of General Services through the establishment of the State Administrative Manual (SAM), and other control agencies that oversee budgeting and procurement. CalRecycle cannot supersede those existing authorities and impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>There are existing procurement requirements on state agencies and this rulemaking will not be adding to those. CalRecycle currently works with sister agencies to implement existing procurement-related legislation. For example, CalRecycle coordinates with the Department of General Services (DGS) to implement the State Agency Buy Recycled Campaign (SABRC), Public Contract Code 12200 to 12217, which requires state agencies to purchase products, including compost and paper, containing recycled content. Additionally, AB 2411 (McCarty, Statutes of 2018), requires CalRecycle to develop a plan for compost use in wildfire debris removal efforts, and to coordinate with the Department of Transportation to identify best practices for compost use along roadways. CalRecycle also worked with sister agencies through the AB 1045 process, which directed CalEPA, CalRecycle, the Water Board, ARB, and CDFA to "develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state." These are examples of how CalRecycle works with sister agencies, but CalRecycle cannot impose procurement mandates on other state agencies without the necessary statutory authority, which SB 1383 lacks.</p> <p>Regarding "nonlocal entities", it is important to clarify that the populations in, for example, local education agencies and special districts are already included in a jurisdiction's population-based procurement target; the population data published by the Department of Finance (DOF) includes universities, community colleges, and other local education agencies. The populations inherent in these entities are built into the procurement target calculation, and jurisdictions are encouraged to work with these entities to meet their procurement targets, which may be accomplished through a contract or agreement, such as a Memorandum of Understanding (MOU). Applying procurement targets to these entities, especially population-based procurement targets, would result in double counting individuals contributing to the procurement requirements.</p>
3416	Zetz, E., SWANA -- CA Chapters	<ul style="list-style-type: none"> The prescriptive nature of the requirements of this Article is of great concern. As currently written, a jurisdiction would be required to purchase material from itself to meet the requirements of this Article. We believe a better approach would be to 	The proposed regulatory text does not limit jurisdictions to the procurement of recovered organic waste products from "their" organics to satisfy the procurement requirements, nor do the products need to be consumed within the jurisdiction. The commenter states, "We believe a

Comment Number	Received From	Question/Comment	Response(s)
	Legislative Task Force	require a jurisdiction to use a certain amount of these types of materials. This would increase incentive for the jurisdictions to produce such products from their own waste stream and would allow for jurisdictions to make use of their own products.	better approach would be to require a jurisdiction to use a certain amount of these types of materials." This is essentially exactly what the procurement requirements do. A jurisdiction may procure from any entity provided the end products meet the Section 18982(60) definition of "recovered organic waste products", and a jurisdiction may use the end products in a way that best fits local needs.
3417	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<ul style="list-style-type: none"> • , electricity, and other recycled organic waste products as may be approved by CalRecycle. We believe that CalRecycle position should be focused on promoting, rather than limiting the use of organic waste products, including those that may be produced by non-combustion conversion technologies. 	<p>The regulatory proposal provides jurisdictions with flexibility to choose the recovered organic waste products that fit local needs, including various renewable gas options such as transportation fuel, electricity, and heating applications.</p> <p>CalRecycle revised the proposed regulatory text to allow for the use of renewable gas for transportation fuel, electricity, and heating applications. CalRecycle is also allowing electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. The intent is to be consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. The changes are necessary to provide more flexibility to jurisdictions in meeting the procurement target with recovered organic waste products in a manner consistent with local needs.</p> <p>SB 1383 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 "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 IEPR supports electricity generation using in-state renewable gas, noting its utility towards meeting the waste reduction requirements and reducing short-lived climate pollutants. The IEPR recognizes that electricity can be more cost-effective than transportation fuel, and specifically mentions the Renewable Portfolio Standard (RPS) and the Bioenergy Market Adjusting Tariff (BioMAT) mechanisms that offer long-term, fixed-price contracts for exporting grid electricity. The proposed end uses also align with recommendations in the SLCP Strategy's Economic Analysis. While the analysis focuses on transportation fuel via pipeline injection as the highest value use of biomethane generated through organic waste diversion, it also identified barriers such as the economic uncertainty associated with RIN and LCFS prices. The report recommends electricity generation for use on-site and export to the grid as an alternative and potentially more stable revenue stream compared transportation fuel.</p>
3418	Zetz, E., SWANA -- CA Chapters Legislative Task Force	CalRecycle should phase any procurement requirements in (as well as allow for jurisdictions to apply for annual waivers "for cause"), as the availability of these products may be limited in the first few years of program implementation and jurisdictions should not be penalized if they are unable to procure the required amounts of these products.	<p>CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill diversion targets required by SB 1383, it would be detrimental to delay the much-needed organics diversion that these procurement regulations are designed to encourage. CalRecycle notes that the regulations do not even take effect until two years after the date the first target is supposed to be achieved.</p> <p>However, CalRecycle recognizes the significant effort and resources needed for program implementation, which is why the rulemaking process has been ongoing since 2017. Although the regulations will not take effect until 2022, adopting them in early 2020 allows regulated entities</p>

Comment Number	Received From	Question/Comment	Response(s)
			approximately two years to plan and implement necessary budgetary, contractual, and other programmatic changes. In other words, it is an opportunity for jurisdictions to phase-in compliance. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.
3419	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Article 13. Reporting</p> <p>We would respectfully request that all reporting be wrapped into the annual report already required for each jurisdiction while excluding reporting activities by "non-local entities" and "local education agencies". This would be more efficient than creating an entirely new reporting requirement and process just for the purposes of these regulations.</p>	Comment noted. CalRecycle may consider streamlined jurisdiction reporting opportunities, such as modifying the Electronic Annual Report process.
3420	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Article 14. Enforcement Requirements</p> <p>For the purpose of this Article, we recommend that a section be included to stipulate appropriate provisions to identify and specify the entity that would be responsible to measure and insure compliance by "non local entities" and "local education agencies" with appropriate requirements of this chapter, including but not limited to, conduct inspection(s), monitor recordkeeping, verify procurements of products made from recycled organic waste, take enforcement action, and possible imposition of penalties similar to those listed in the Article 16 of this chapter.</p>	<p>Regarding the per capita procurement target, CalRecycle calculated the number using government's share of the statewide gross domestic product (GDP) and the projections of state population and organic waste diversion needed in 2025. In order to meet the 2025 organic waste diversion target mandated by SB 1383, jurisdictions will be required to procure a percentage of the diverted organic waste in the form of recovered organic waste products. As procurement will require local governments to create markets for these products, CalRecycle determined it would be appropriate to utilize the percentage of government's share of the statewide GDP, which has averaged 13% over the most recent 10 years of data from the United States Bureau of Economic Analysis, as the amount of diverted organic waste that must be procured by jurisdictions in the form of recovered organic waste products. Although higher procurement of recovered organic waste products by jurisdictions beyond the required per capita procurement target is encouraged, CalRecycle does not find it appropriate to increase this requirement beyond government's share of the GDP.</p> <p>CalRecycle has added language to clarify that procured compost must be from a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility which will mean that the compost will be required to meet environmental health standards in Title 14, including for pathogens, metals, and physical contaminants.</p> <p>However, CalRecycle disagrees with adding the specific terms listed in the comment due to lack of conversion factors and uncertain landfill diversion of feedstock for these products. The broad range of potential products made from "bioresources" raises the possibility that evaluation on an individual basis would be overly burdensome and would not be transparent to all stakeholders. CalRecycle worked closely with the Air Resources Board to determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors</p>
3421	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Additionally, we are concerned with provision of Section 18995.1 (c) which for the purpose of measuring compliance mandates jurisdictions to generate a written report for each inspection, route review, and the name or account name of each person or entity. Some information from haulers to a jurisdiction are confidential and cannot be released to Cal Recycle. We recommend jurisdiction be required to only provide Cal Recycle with (a) A general description of the route location, (b) A</p>	<p>The comment refers to recordkeeping requirements for jurisdictions to retain. This information is not required to be reported publicly. To the extent that documents required to be retained in a jurisdiction's Implementation Record contains truly proprietary or trade secret information, there are existing protections built into the Public Records Act (Gov. Code Sections 6250 et seq.) to allow public agencies to withhold such information from public disclosure.</p> <p>The proposed regulations were amended to provide for this.</p>

Comment Number	Received From	Question/Comment	Response(s)
		general description of account reviewed, and (c) A list of account holders determined by the jurisdiction to be subject to enforcement actions.	
3422	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Article 14. Implementation Records and Recordkeeping Requirements The requirement to provide access to records within one business day, contained in Section 18995.2(c) is unreasonable. There are a host of legitimate reasons that may prevent this standard from being met, including employee workload and absences due to vacation and illness. We ask that this requirement be revised to be consistent with the Public Records Act, which provides 10 days, consistent with this document's reference to the PRA in 18995.2(g).	CalRecycle has revised section 18995.2 (c) in response to this comment to allow for 10 business days rather than one.
3423	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Article 15. Enforcement Oversight By The Department, Sections 18996.2 & 18996.3 Pursuant§ 42653 (a) of the PRC, Cal Recycle and CARB (not local jurisdictions) are responsible for identifying the barriers to organic waste recycling, the status of new organics recycling infrastructure development, the commitment of state funding to support infrastructure expansion, the progress in reducing regulatory barriers to the siting of organics recycling facilities, the timing and effectiveness of policies that will facilitate the permitting of organics recycling infrastructure, and the status of markets for the products generated by organics recycling facilities. Therefore, we would respectfully request that the regulatory language include allowances for jurisdictions and other entities that demonstrate a substantial effort to comply with the regulations but are unable to do so due to factors outside of their control.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3424	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Furthermore, we are disappointed that the proposed regulations fails to incorporate provisions for a jurisdictions demonstrating a "good faith effort" to comply with SB 1383 organic waste landfill reduction mandates. Specifically, SB 1383 {Public Resources Code § 42652.5 (a) (4)} states, "The department shall base its determination of progress on relevant factors, including, but not limited to, reviews conducted pursuant to Section 41825, the amount of organic waste disposed compared to the 2014 level, per capita disposal rates, the review required by Section 42653, and other relevant information provided by a jurisdiction" (em13hasis aeleled). PRC Section 41825 establishes the process to be used by CalRecycle in evaluating a jurisdiction compliance with State mandated recycling goals. The process requires Cal Recycle to consider "good faith efforts" by the jurisdiction in making its determination of the jurisdiction progress (emphasis added). Furthermore, as stated in PRC Section 41850 (b), CalRecycle is required to make a determination as to whether a jurisdiction has made a good faith efforts to comply with the recycling mandates before imposition of any administrative penalties on the jurisdiction (emphasis added) ... We therefore request to the proposed regulation be expanded to include provision for Cal Recycle to consider the "good faith effort" of a jurisdiction to comply with organic waste landfill reduction mandates.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3425	Zetz, E., SWANA -- CA Chapters	Alternatively, we request that CalRecycle revise the definition of "substantial effort", "extenuating circumstances", and "critical milestones" as define Section	Consistency with the suggested PRC provisions is inappropriate. Note that the definition of "critical milestones" was deleted from the regulations.

Comment Number	Received From	Question/Comment	Response(s)
	Legislative Task Force	18996.2 (a) to be consistent with provisions of PRC Sections 41821, 41825 4 and 41850.	The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a "Corrective Action Plan" (CAP). This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3426	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Additionally, we are greatly concern with the proposed definition of "critical milestones" as written in Section 18996.2 (a) (2) (D) which reads "For the purpose of this section, "critical milestones" means all actions necessary for a jurisdiction to comply, including, but not limited to, receiving all approval by decision-making bodies, permit application submittals and obtaining approvals, and tasks associated with local contract approvals} (emphasis added). This is an impossible task and a local government or any state agency cannot guarantee that they can receive "all decision-making bodies" approval and need to be deleted.	A change to the regulatory text is not necessary. This exclusion of the circumstance where a decision-making body of a jurisdiction has not taken action as "substantial effort" was to prevent delayed enforcement action due to a jurisdiction failing to take adequate steps to comply with the Chapter. The success of the Short-lived Climate Pollutant Strategy relies on achieving significant reductions in landfill disposal of organic waste by 2020 and 2025. This strict timeframe does not allow for a multi-year and multi-step process for achieving compliance or a "good faith effort" as with AB 939. Enforcement by the Department allows a jurisdiction extended timeframes to come into compliance through extensions and the Correction Action Plan (CAP). Absolving the jurisdiction of their responsibility to comply with the regulations due to the failure of a decision-making body would render the state incapable of achieving the SB 1383 targets. The jurisdiction is ultimately responsible for their compliance with the Chapter and shall be subject to penalties for noncompliance and the decision-making body will need consider the possibility of penalties if it fails to take the necessary steps to comply. By adopting the SB 1383 regulations as early as possible, impacted stakeholders will be provided the maximum amount of time to prepare and budget for implementation and compliance. The legislature amended SB 1383 to strip the requirement that CalRecycle use the "Good Faith Effort" requirement of AB 939 (Sher, Chapter 1095, Statutes of 1989) for enforcement for SB 1383. SB 1383 requires a more prescriptive approach and state minimum standards; jurisdictions must demonstrate compliance with each prescriptive standard. CalRecycle does exercise its enforcement discretion to allow consideration of "substantial efforts" made by the jurisdiction and the placement on a CAP. This effectively allows CalRecycle to consider efforts made by a jurisdiction, while not absolving them of responsibility. This structure allows CalRecycle to focus on compliance first and dedicate enforcement efforts to egregious offenders. The 75 percent organic waste diversion target in 2025 will not be reachable with the longer compliance process under the Good Faith Effort standard. Implementation of the prescriptive regulatory requirements of the regulation are designed to achieve the organic waste reduction targets, which is consistent with the explicit statutory direction
3427	Zetz, E., SWANA -- CA Chapters	Article 16. Penalty Amounts We struggle to identify the statutory authority for CalRecycle to require local jurisdictions to impose penalties on generators for noncompliance. Section	Public Resources Code Section 42652.5(a)(1) explicitly contemplates CalRecycle requiring "local jurisdictions to impose requirements on generators or other relevant entities within their

Comment Number	Received From	Question/Comment	Response(s)
	Legislative Task Force	<p>42652.5(a)(l) is clear, we believe, that the department "may authorize" jurisdictions to impose penalties but it does not provide authority to the department to mandate that jurisdictions impose penalties, and certainly does not provide authority for such prescriptive regulations. This portion of the statute provides many different areas of authority to the department, and it is incredibly precise in its phrasing, using "may require", "may authorize", "shall include", and "may include", among others to describe the precise authority being granted to the department. Again, we would respectfully point out that the statute seems to authorize the department to "authorize" penalties, but not mandate them.</p>	<p>jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance."</p> <p>SB 1383 provides a broad grant of regulatory authority to CalRecycle in Public Resources Code Section 42652.5, "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." That section also provides that CalRecycle may "include different levels of requirements for local jurisdictions..."</p> <p>Furthermore, CalRecycle also maintains broad, general rulemaking authority in Public Resources Code Section 40502, "The [department] shall adopt rules and regulations, as necessary, to carry out this division [Division 30 of the Public Resources Code] in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code." SB 1383 is included within Division 30.</p> <p>As stated in <i>PaintCare v. Mortensen</i> (2015) 233 Cal. App. 4th 1292, where CalRecycle successfully prevailed in a court action alleging a lack of authority to pass administrative regulations, the Court stated that "[a]n administrative agency is not limited to the exact provisions of a statute in adopting regulations to enforce its mandate. '[The] absence of any specific [statutory] provisions regarding the regulation of [an issue] does not mean that such a regulation exceeds statutory authority' The [administrative agency] is authorized to 'fill up the details' of the statutory scheme."</p> <p>Consistent with rules of statutory construction, Public Resources Code Section 42652.5(a)(1) must be read as a whole and interpreted in a way that renders the text as compatible, not contradictory. This section states that the regulations "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance." The first part of this section explicitly contemplates regulatory requirements on entities besides generators as long as they are relevant to meeting the mandates of SB 1383. Thus, the second part of the section regarding penalties must be read harmoniously and as a whole with the first part to permit penalties on the other entities that may be subject to regulatory requirements. Without enforcement penalties on the other entities, the regulatory requirements are not actually requirements but mere suggestions. Bolstering this interpretation is the Assembly Floor Analysis for SB 1383 (August 31, 2016) which stated that the bill, "May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and impose penalties for noncompliance."</p> <p>Regarding the language "authorizing" penalties by local jurisdictions, the clear intent of the legislation was that jurisdictions must penalize non-compliance with SB 1383 requirements. First, the language of Assembly Floor Analysis described above makes this intent clear – CalRecycle may require jurisdictions to impose requirements "and impose penalties for noncompliance." Second, the Legislature designed the bill to achieve the organic waste reduction goals in part by requiring</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>local jurisdictions to impose requirements. These requirements must be enforceable through penalties or:</p> <p>(a) they will not actually be requirements but suggestions; and (b) there will be no way to ensure compliance by regulated entities and thus achieve the goals of the statute. Given these considerations, CalRecycle has authorized local jurisdictions to impose penalties as long as they meet the conditions described in the regulations regarding categories of violations, requirements to enforce against those violations, and minimum penalty levels.</p> <p>Regarding Section 18995.1(a)(1)(B)(5), CalRecycle notes that the language of this section was amended to simply specify that jurisdictions enforce according the enforcement timetables and compliance extensions in Section 18995.4 and the administrative civil penalty provisions in 18997.2.</p>
3428	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Article 6.2. Operating Standards (Page 70)</p> <p>Section 17402(a)(0.5) "Consolidation sites" -This definition is helpful, and these facilities are provided exemption from some requirements later in the proposed regulations. However, provisions in Article 3 Organic Waste Collection Services require organics and recyclables to be taken only to facilities that require processing. These earlier requirements should be modified to allow these consolidation sites to function as intended.</p>	<p>A change to the regulatory text is not necessary. The definition is necessary to distinguish sites that conduct processing from those that do not. Processing is defined in existing text and not part of this rulemaking process. The intent is not to add a new type of operation or facility but to clarify which existing type of facilities and operations are not subject to the facilities measurement or record keeping requirements.</p>
3429	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Section 17409.5 Loadchecking</p> <p>This section requires the implementation of a loadchecking program to prevent the acceptance of prohibited waste The program described is onerous for operators, and in many processing facilities, difficult or impossible to achieve. Sections 17409.5.1 through 17409.5. require daily one cubic yard samples from each organic waste type or stream separated, while Section 17409.5.7 requires a potential of multiple load checks per day for inspection of contamination.</p> <p>The number of samples that must be sorted through to accomplish the objectives of Section 17409.5 on a daily basis would require large physical areas at processing facilities and a significant amount of additional staff to accomplish what is required, without even accounting for recordkeeping and reporting requirements. Many facilities, especially the larger ones, are very tight on space given all the activities that are simultaneously going on to effectively sortthrough the incoming solid waste streams. These physical restrictions will become even greater when processing facilities ramp up to handle greater volumes of organic waste.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The methodology was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days per quarter instead of daily 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 get the needed data.</p> <p>Regarding the loadchecking:</p> <p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site</p>
3430	Zetz, E., SWANA -- CA Chapters	<p>Section 17409.5.9 allows alternative measurement protocols, but it is not at all clear what will be allowed and how long it will take to approve such protocols. To make</p>	<p>CalRecycle staff has noted the comment. Section 17409.5, loadchecking for prohibited waste is an existing regulation and CalRecycle is not proposing a revision to this standard. This is not within the scope of this rulemaking.</p>

Comment Number	Received From	Question/Comment	Response(s)
	Legislative Task Force	<p>the overall proposed loadchecking program more workable, it is recommended that CalRecycle take the following approach: Section 17409.5. Loadchecking-Prohibited Wastes. (a) The operator of an attended operation or facility shall implement a random loadchecking program to prevent the acceptance of waste which is prohibited by this Article. This program must include at a minimum: (1) the number of random loadchecks to be performed based upon the selection of one random week every quarter; (2) a location for the storage of prohibited wastes removed during the loadchecking process that is separately secured or isolated, or an alternative that is consistent with the physical constraints of the facility; (3) records of loadchecks and the training of personnel in the recognition, proper handling, and disposition of prohibited waste. In lieu of the use of the facility's personnel to conduct loadchecks, contract inspection staff may be utilized that have been certified in training for these applications. A copy of the loadchecking program and copies of the loadchecking records for the last year shall be maintained in the operating record and be available for review by the appropriate regulatory agencies.</p> <p>The remaining section changes would flow from the concept detailed here. The core precept of this proposal is that over time, the facility will receive fairly consistent types of waste for similar sources. The goal is to ensure that the facility is performing as a "high organics diversion facility." Statistically, it is not necessary to do the checks every day, and the checks are of the facility's ability to properly sort and manage the mixed organic wastestream, which won't necessarily change on a daily basis. If over time that data indicates problems, then other loadcheck frequencies may be more appropriate. In addition, this concept recognizes that loadchecking may be contracted out, if the facility does not have personnel capable of performing these tasks.</p>	<p>CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.</p>
3431	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream -The daily sampling requirement for each separate organic waste type is excessive. It would require significant space and is not related to the amount of waste accepted. Operators should have flexibility on how to implement sampling for contamination. In addition, facilities located in jurisdictions that have waivers should not be required to conduct sampling.</p>	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily will help minimize concerns over frequency of sampling and cost</p>

Comment Number	Received From	Question/Comment	Response(s)
			<p>to facilities associated with extra time, labor, space and other logistics required for the analysis and still get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p> <p>Regarding jurisdictions located in jurisdiction with waivers: A change to the regulatory text is not necessary. Waivers would provide certain jurisdictions a waiver from organic waste collection service, education, and enforcement if the jurisdictions meet the requirements of the waiver. A jurisdiction that is granted a waiver would not be collecting waste, so there would be no waste to send to a facility. In addition, a facility or operation located in a jurisdiction that was granted a waiver is not exempt from complying with measurement requirements.</p>
3432	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section 17409.5.3. Measuring Organic Waste in Residuals Removed from Mixed Waste Organic Collection Stream -The comments above apply to this section also.	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p> <p>Regarding jurisdictions located in jurisdiction with waivers: A change to the regulatory text is not necessary. Waivers would provide certain jurisdictions a waiver from organic waste collection service, education, and enforcement if the jurisdictions meet the requirements of the waiver. A jurisdiction that is granted a waiver would not be collecting waste, so there would be no waste to send to a facility. In addition, a facility or operation located</p>

Comment Number	Received From	Question/Comment	Response(s)
			in a jurisdiction that was granted a waiver is not exempt from complying with measurement requirements.
3433	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section 17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream -The comments above apply to this section also.	<p>CalRecycle has revised Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 in response to comments. The changes to the measurement protocols to determine the amount of organic waste recovered and sent for disposal include a reduction in sample size and frequency. The change is necessary to replace the provision with less burdensome alternative. The measurement protocol is necessary to determine the level of efficiency of a facility to separate organic material for recycling. This is needed to determine the efficiency of the facility in order to make required determinations in Article 3. For statewide consistency, it is necessary to specify how a facility is to measure recovery efficiency to determine if it meets the definition of a high diversion organic waste processing facility.</p> <p>The methodology described in Sections 17409.5.2 through 17409.5.8, 17867(a)(16)(B), 17896.25.1(a)(1) and 17896.44.1 was revised to require that at least a 200-pound composite for 10 consecutive days per reporting period, instead of daily sampling of one cubic yard. Using 10 consecutive days instead of daily 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 get the needed data.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to the measurement protocols described in these sections if the operator can ensure that the measurements will be as accurate.</p> <p>Regarding jurisdictions located in jurisdiction with waivers: A change to the regulatory text is not necessary. Waivers would provide certain jurisdictions a waiver from organic waste collection service, education, and enforcement if the jurisdictions meet the requirements of the waiver. A jurisdiction that is granted a waiver would not be collecting waste, so there would be no waste to send to a facility. In addition, a facility or operation located in a jurisdiction that was granted a waiver is not exempt from complying with measurement requirements.</p>
3434	Zetz, E., SWANA -- CA Chapters Legislative Task Force	Section 17409.5.7 requires that the "Operator inform the hauler or jurisdiction of origin of received loads with visible contamination." This requirement would have the facility continually having to inform the haulers or jurisdiction, because based upon our experience, most blue bins have contamination. This requirement should only be triggered if there are unusually high levels of visible contamination in received loads.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations in response to comments. The changes replace the number of waste evaluations and frequency of samples that will now be required. This change is necessary to replace the provision with a less burdensome alternative. The waste evaluation changes will reduce the frequency of sampling and reporting requirements. The gray container waste evaluations will now only be required at Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually will now only have to conduct one waste evaluation per quarter. The change will also allow operators to perform the gray container waste evaluations at an alternative solid

Comment Number	Received From	Question/Comment	Response(s)
			waste facility. This is necessary to lessen the burden for operators that have limited space, resources, or finance to conduct the evaluations on-site.
3435	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Section 17409.5.6 requires that source-separated organics waste processing be kept separate from other solid waste streams. This is not practical, especially in facilities that may also combine organic streams for further on-site processing. The following changes are recommended to this section:</p> <p>(a) Source-separated organics waste handling processing shall be kept separate from other solid waste streams.</p> <p>(1) The facility operator shall be allowed to combine recovered materials for operational efficiency from any source or sector that meets their end user's specifications if the operator can verify that the combined materials are maintained in compliance with their Facility Plan or Transfer/Processing Report</p> <p>(b) Source-separated organic waste and organic waste removed from a mixed waste organic collection service for recovery shall be:</p> <p>(1) stored for operational efficiency and away from other activity areas in designated and specified, clearly identifiable areas as described in the Facility Plan or Transfer/Processing Report: and,</p> <p>(2) removed Removed from the site consistent with section 17410.1 and either:</p> <p>(A) transported only to another solid waste facility, POTW, or operation for additional processing, composting, in-vessel digestion, or other recycling recovery as specified in section (xx20.1) of this Division; or,</p> <p>(B) used in a manner approved by local, state, and federal agencies having appropriate jurisdiction; or,</p> <p>(C) sent for disposal.</p>	A change to the regulatory text is not necessary. Source separated organics can be processed with other solid waste streams after sampling has occurred for each waste streams. Until then, waste streams must be processed and kept separate. Otherwise, it would be hard to accurately determine the percentage of actual organic content recovered from each waste stream in order to determine if a facility is meeting the efficiency recovery requirement.
3436	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Chapter 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements</p> <p>For facilities that receive pre-processed waste, the loadchecking requirements are completely unnecessary. Facilities that perform the processing will likely have met the requirements for processing facilities, and it is likely that contracts will specify contamination requirements that are more rigorous than those contained with the proposed regulations.</p> <p>Furthermore, if the facility accepts pre-processed waste from a third party, or other facility, it will likely perform its OM1checking programs to ensure the integrity of the digester operation. But the requirements in the regulations are unnecessarily onerous in terms of frequency and quantities.</p>	CalRecycle has deleted the loadchecking requirements at In-Vessel Digestion operations and facilities in response to comments.
3437	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>§20700.5 CalRecycle - Long Term Intermediate Cover</p> <p>The proposed amendment is not necessary for two reasons; the definition of intermediate cover already exists in 27 CCR and the control of landfill methane emissions is already regulated via 17 CCR.</p> <p>CalRecycle has created a new definition "Long Term Intermediate Cover" that is not necessary as Intermediate Cover is already defined in existing regulation 27 CCR section 20700 as " ... all surfaces of the fill where no additional waste will be deposited within 180 days ... ". Additionally, methane emission</p>	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments. The section was removed and the requirement was included as part of the Status Impact Report (SIR). The SIR was amended to add the requirement to identify areas in the landfill that would remain with intermediate cover. The addition of this requirement to the SIR ensures that areas with intermediate cover are maintained to meet the intermediate cover criteria of controlling the infiltration of precipitation into waste, vectors, fires, odors, blowing litter, and scavenging to reduce threats to public health and safety and the environment.

Comment Number	Received From	Question/Comment	Response(s)
		<p>control is already regulated via CCR 17 section 95460 et. seq. The purpose of existing regulation 17 CCR Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 6 is to reduce methane emissions from municipal solid waste (MSW) landfills pursuant to the California Global Warming Solutions Act of 2006 (Health & Safety Code, Sections 38500 et. seq.). Provisions of this regulation establish surface emission testing criteria, methane emission thresholds and regulatory requirements to meet the established thresholds.</p> <p>There has been no scientific or engineering justification for increasing the long-term intermediate cover from the current 18 inches to 36 inches. Methane emissions are already regulated at landfills and are enforced with monitoring requirements. If the rationale for this increase is to control methane, there has been no indication that the current 18 inches is not sufficient and, in addition, Health and Safety Code 39730.6 states that "the state board shall not adopt, prior to January 1, 2025, requirements to control methane emissions associated with the disposal of organic waste in landfills other than through landfill methane emissions control regulations." Doubling the amount of cover is a diversion of funds from program implementation with no added benefit. This provision should revert to the current 18 inches.</p>	
3438	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Section 20750.1 CalRecycle - Organic Waste Handling</p> <p>The proposed amendment effectually forces landfills to construct material recovery facilities (MRF) to recover organic materials or improve an existing MRF every time the landfill proposes to make a significant change to the design or operation as defined in 27 CCR §21665. This action places a mandated financial burden of constructing or improving a MRF for organic recovery on landfill operators rather than improving organic recovery at existing MRF's.</p> <p>This proposed section would also require all landfills to implement organic waste recovery activities even if the jurisdiction has received a waiver from the organics management programs.</p>	<p>A change to the regulatory text is not necessary. This section is necessary to ensure that new or expanding landfills implement an organic recovery activity in efforts to keep organic waste out of the landfill. Landfills that do not have available land or the finance to implement an organic waste recovery activity on-site have the option to transport the waste off-site to another facility where a recovery activity can take place.</p> <p>A waiver granted to a jurisdiction would exempt a jurisdiction from complying with the requirements of the organic waste collection service, education, and enforcement depending on the waiver. Therefore, a jurisdiction that is granted a waiver from the organic waste collection service would not be collecting waste so they would not be sending waste to a landfill. In addition, a solid waste facility is not exempt from complying with this section or any of the other requirements for the solid waste facilities because it is located in a jurisdiction that was granted a waiver.</p>
3439	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Section 20901. CalRecycle-Loadchecking Contamination in Source Separated Organic Waste.</p> <p>Like Sections 17409.5.II(b)(I) and 17867(4)(A), this section states that "One loadcheck shall be conducted for every 500 tons of [gray container/source separated organic] waste received per operating day. If the operator receives less than 500 tons for the operating day, a minimum of two (2) loadchecks shall be performed for that operating day."</p> <p>Is the word "less" in the second sentence (in bold text above) instead meant to be "more"? As written, the requirement seems to require a minimum of two loadchecks per day, regardless of how little waste is received at the facility. For example, a 25-ton per day facility would still need to perform two loadchecks.</p>	CalRecycle has deleted the loadchecking requirements, Section 20901 in response to comments.

Comment Number	Received From	Question/Comment	Response(s)
3440	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>Section 21695. CalRecycle-Organic Disposal Reduction Status Impact Report</p> <p>The Status Impact Report (SIR) is required of all landfill operators within 180 days of the effective date of the regulations. The practical purpose of this costly requirement is not evident and is not explained in the ISOR. The disposal reductions created by increased diversion of organics will not have yet occurred. Sources and flows of disposed waste are complex and operators are likely to be unable to predict with any accuracy how future quantities will change as a result of the regulations, in terms of either mass or volume. This means that each analysis and report will be based primarily on speculation by the engineer or certified engineering geologist who prepares the report. The complexity of primary and secondary flows of diverted organics may result in disposal decreases at some sites and increases at other sites that (for example) specialize in receiving residues from organics processing.</p> <p>We recommend that CalRecycle either:</p> <ol style="list-style-type: none"> 1. Delete Section 21695 entirely, or 2. If gaining useful information on changes to landfill flows, closure dates, etc. resulting from disposal flow changes caused by SB 1383 is a priority, delay by 3-5 years the date on which these reports are due, and make the requirement conditional on actual, observed changes in flow to a particular landfill that exceed a specified threshold (e.g. an increase or decrease of more than 10% from 2018 tonnages). 	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the requirement that operators identify those areas in the landfill that would remain with intermediate cover and to extend that date for submittal of the Status Impact Report (SIR) from 180 days to one year (365 days) from the effective date of these regulations.</p> <p>The SIR is a site specific, one-time submittal that is prepared by the operator after they have reviewed their landfill operations to determine any potential impacts from the reduction of organic disposal (waste flow) to their landfill. The one-year timeframe established in this regulation for the submittal of the SIR is intended to assist the operator in determining and assessing in the timing of those impacts in order properly implement any changes or modifications to the landfill in a timely manner. Because only the potential impacts associated with the reduction of the amount waste disposed will be reviewed, staff believe that one-year from the effective date of the regulations is an adequate amount of time for the operator to meet the requirements of this section.</p> <p>In addition, this section provides a list of items to be considered by the operator in order to assist them complete the SIR. This information in items listed is needed in order to adequately evaluate the potential impacts to the landfill resulting from the reduction of organic disposal at landfills. If there will be no changes to a particular item, then a statement to that effect would be adequate.</p>
3441	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>§21570. CalRecycle-Filing Requirements</p> <p>(f)(13) CalRecycle provided no clarity on why there would be a public meeting prior to submittal of a permit application package when a similar requirement for an informational meeting already exists after submittal. Currently, operators are required to submit a permit application 180 days prior to getting approval for the change. Imposing an additional 180 days before the submittal would result in starting the process for new or expanded solid waste facility one year prior to the change. Given that other requirements in the proposed regulations will mandate changes to permits and some implementation deadlines happen in 2022, there will be little time to start permit changes in time.</p> <p>The requirements under existing Section 21660.2 already impose an informal meeting for New and Revised permits after submittal. Changes to this section also require identifying disadvantaged communities, the proposed requirement in 21570 (f)(13) should be removed and included in section 21660.2.</p>	<p>CalRecycle has revised this section in response to comments. The section was modified to clarify that the operators of a new or expanded facility hold a public meeting with any affected disadvantage communities 180 days of submitting a permit application package. This change in this section is necessary to clarify that the 180 days is not an extension to the already established time in regulations for a permit application package but part of it. The purpose of this section is to ensure that if there are any affected disadvantage communities, they are provided an opportunity to attend the meeting and comment on the project.</p> <p>Section 21660.2 is an Enforcement Agency's (EA) requirement. EA's are required to hold informational meetings for new and revised Solid Waste Facility Permits. This is different than the operator's requirements under Section 21570(f)(13), which has been renumbered to Subdivision (g).</p>
3442	Zetz, E., SWANA -- CA Chapters Legislative Task Force	<p>In addition, Section 21570 (f)(13) requires including "any affected group" in the public meeting, That term has no definition and has no limit as to how far from the facility the affected group is located. The term "affected group" should be removed.</p>	<p>CalRecycle has revised this section in response to comments. The section was revised to delete the term "groups" from "affected groups" and change the term "disadvantage communities" to "affected disadvantage communities" and define the term "affected disadvantage communities." This was necessary to better clarify the term to let operators know who would be represented in this group so that they are notified and are provided an adequate opportunity to attend and provide comments on the project. The section was also renumbered to Section 21570(g).</p>
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Comment Number	Received From	Question/Comment	Response(s)
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