

Comment Number	Received From	Question/Comment	Response(s)
6225	Aggers, J., Stanislaus County	Page 7 - Article 1: Definitions - Section 18982 (28) -- In second sentence, gray container is erroneously referred to as green. <b>Change "green" to "gray."</b>	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say 'gray' instead of 'green.'
6226	Aggers, J., Stanislaus County	Page 10- Article 1: Definitions - Section 18982 (55)(B) -- The definition of "organic waste" includes carpet, yet Section 18982(B) includes carpet in the definition of "prohibited container contaminant." In addition, Page 17, Section 18984.1(5)(A) again points out that carpets "shall not be collected in the green (organics) container." Please clarify whether carpet, which is defined as organic waste, can be included in organics waste recycling programs.	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.
6227	Aggers, J., Stanislaus County	Page 29- Article 3: Organic Waste Collection Services- Section 18984.12 (a)(2) Waivers and Exemptions Granted by the Department - Please clarify what data services (U.S. Census Bureau, Dept. of Finance, data generated by local government agencies, etc.) can be utilized to determine population density.	The data is from the U.S. Census Bureau.
6228	Aggers, J., Stanislaus County	Page 31 - Article 3: Organic Waste Collection Services - Section 18984.13 (d)(2) Emergency-Circumstances. Abatement, and Quarantined Materials In Stanislaus County, the determinations about diseased animals that must be depopulated and/or quarantined are often made by the United States Department of Agriculture (USDA). <b>Please add USDA to this Section.</b>	USDA will not be included in this section. Unprocessed mammalian tissue, such as any dead animals from depopulation, would be subject to Title 14 prohibitions from being processed at compostable material handling facilities or operations (Section 17855.2) and in vessel digestion facilities and operations (Section 17896.7) and would be required to go to either disposal or other uses besides recovery.
6229	Aggers, J., Stanislaus County	Page 94 - Article 17: Performance-Based Source Separated Organic Waste Collection Service - Section 18998.1 (a)(1) Requirements for Performance-Based Source Separated Collection Service -- This Section states: "Provide a three-container organic waste collection service consistent with Section 18984.1 of this chapter to at least 90 percent of the organic waste generators subject to the jurisdiction's authority." Please clarify that if 90 percent is achieved that there are no requirements for participation in a three-container organic waste collection service for the remaining 10 percent of the generators.	Comment noted. CalRecycle agrees a jurisdiction implementing a performance-based source separated organic waste collection service is not required to provide organic waste collection services to up to 10 percent of commercial and up to 10 percent of residential generators.
6230	Aggers, J., Stanislaus County	Page 94 - Article 17: Performance-Based Source Separated Organic Waste Collection Service - Section 18998.1 (a)(1) Requirements for Performance-Based Source Separated Collection Service Consider adding more flexibility for local jurisdictions to implement a performance-based organic waste collection service based on local needs. For example, it should be permissible for a jurisdiction to also authorize a <b>two-container</b> performance-based source separated organic waste collection service, in place of or in addition to a three-container service, if the 90 percent threshold of generators can be demonstrated. Many unincorporated area residents within Stanislaus County that subscribe to weekly refuse collection service place no "green material, landscape and pruning waste" in their waste container currently yet they would may be good potential candidates for a two-container system: i.e., one gray container and one	Comment noted. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The jurisdiction could provide the type of services it describes under the provisions of Article 3.

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		blue container that could include mixed paper, glass, cans, etc., that could go to a mixed recyclables processing facility.	
6231	Aggers, J., Stanislaus County	<p>Page 94 - Article 17: Performance-Based Source Separated Organic Waste Collection Service - Section 18998.1 (a)(1) Requirements for Performance-Based Source Separated Collection Service</p> <p>Please clarify what data service (U.S. Census Bureau, Dept. of Finance, data generated by local government agencies, etc.) can be utilized to determine the required the 90 percent of organic waste generators if a performance-based source separated organic waste collection service is chosen.</p>	<p>The regulations do not require the use of a specific data source. Jurisdictions must maintain records that demonstrate that they meet the minimum service requirements. The demonstration should be based on substantial evidence.</p> <p>If a jurisdiction is entirely unaware of the number of businesses licensed to operate, or residential properties located within their jurisdiction, they are not required to pursue this compliance option.</p>
6232	Aggers, J., Stanislaus County	<p>Page 95-Article 17: Performance-Based Source Separated Organic Waste Collection Service - Section 18998.3 (a) Notification to Department</p> <p>Rather than requiring jurisdictions to notify the Department by Jan. 1, 2022, if they plan to implement a performance-based system, please consider adding a checkbox on the CalRecycle Electronic Annual Report that can be used to satisfy this requirement.</p>	Comment noted. This comment does not recommend a regulatory change.
6233	Aggers, J., Stanislaus County	<p>Beginning on Page 152- Article 4: CalRecycle- Controls-Section 20901 (a) Gray Container Waste Evaluations</p> <p>Please clarify that waste collected and delivered to a transfer station prior to being delivered to a disposal facility has been previously evaluated at the transfer station. Re-evaluating the collection stream at the disposal facility would be redundant.</p>	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
6234	Aggers, J., Stanislaus County	<p>Beginning on Page 152- Article 4: CalRecycle- Controls- Section 20901 (b) Gray Container Waste Evaluations</p> <p>The requirement for quarterly gray container collection stream waste evaluations from each jurisdiction is excessive. The most recent CalRecycle waste study was conducted in 2016. Reducing the required waste evaluation frequency to annually would be more than sufficient. Quarterly evaluations would be both costly and overly burdensome.</p>	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
6235	Aggers, J., Stanislaus County	<p>Page 163-Article 3.2: CalRecycle- Other Requirements- Section 21695 CalRecycle- Organic Disposal Reduction Status Impact Report (c)(1)(A)(1) and (A)(2)</p> <p>This Section suggests adding yet another new component to the new requirement that landfills prepare a "Status Impact Report (SIR)" or specifically an "intermediate cover analysis." This is unnecessary and overly burdensome. Much of this information is already included in the required Joint Technical Document.</p>	A change to the regulatory text is not necessary. The information required in this section is not available through the joint technical document so the only way to obtain it is for the operator to provide it. The information is needed 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.
6236	Aggers, J., Stanislaus County	<p>Page 164- Article 3.2: CalRecycle- Other Requirements- Section 21695 CalRecycle- Organic Disposal Reduction Status Impact Report (i)</p> <p>This Section requires landfills that use intermediate cover for 12 months or more to conduct a study to evaluate the effectiveness of intermediate cover vs. final cover. Without the need for a costly study, a comparison of intermediate cover to final cover will likely show the intermediate cover is less effective. In addition, please clarify the parameters that would be required to evaluate effectiveness.</p>	CalRecycle has deleted Section 21695 (i) in response to comments.

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		Conversely, if this requirement only applies to landfills that use organics as part of intermediate cover; please clearly state this.	
6237	Aggers, J., Stanislaus County	Page 164-Article 3.2: CalRecycle- Other Requirements- Section 21695 CalRecycle- Organic Disposal Reduction Status Impact Report (i)(2)(B) This Section requires that the intermediate vs. final cover study include a description of any corrective action taken. Existing statute/regulations require surface emission monitoring, as well as corrective actions within specific time frames if exceedances above a certain threshold are found. This is duplicative and unnecessary. In addition, if surface emission exceedances are found, they must be addressed timely; the timeframe for which will likely never coincide with the requirement to prepare a SIR. <b>This requirement should be removed.</b>	CalRecycle has deleted Section 21695 (i) in response to comments.
6238	Aggers, J., Stanislaus County	Page 164- Article 3.2: CalRecycle- Other Requirements- Section 21695 CalRecycle- Organic Disposal Reduction Status Impact Report (i)(4) See above comment. Please clarify the parameters that would be required to evaluate effectiveness.	CalRecycle has deleted Section 21695 (i) in response to comments.
6239	Aggers, J., Stanislaus County	Beginning on Page 164- Article 3.2: CalRecycle- Other Requirements- Section 21695 CalRecycle- Organic Disposal Reduction Status Impact Report (i)(4-6) and (k) These Sections require that, if the redesign of intermediate cover is required, yet another study of the redesigned cover will be required which may also trigger the need for an updated Joint Technical Document (JTD). It is unlikely that comparing a 1-foot thick soil cover to a multi-component final cover will ever show the intermediate cover is as effective so a second study will almost always be a certainty. Many things trigger the need for a landfill to prepare an updated JTD and adding another "trigger" to require it is overly burdensome and costly. Conversely, as stated above, if this requirement only applies to landfills that use organics as part of intermediate cover, please clearly state this.	CalRecycle has deleted Section 21695 (i) through (k) in response to comments.
6011	Aguinaga, G., Harvest Energy Holdings LLC	Stringency in-line with SB 1383: CalRecycle should set strong rules that require all parties – generators, haulers, municipalities, designated source separated organic waste facilities and others – to maximize organics collection and diversion from landfills and ensure the state is on track to meet the organics diversion targets required in SB 1383. We strongly support organics diversion targets of reducing organics disposal by 50% below 2014 levels by 2022 and 75% below 2014 levels by 2025, and we encourage CalRecycle to maintain those levels in the final rule.	Thank you for the comment. The comment is not asking for a language change.
6012	Aguinaga, G., Harvest Energy Holdings LLC	We support flexibilities that ease compliance with strong rules and facilitate greater organics diversion throughout the state, but are concerned by regulatory changes that might complicate achievement of the diversion targets or miss opportunities that may exist for additional organics diversion and utilization. In particular, we note that a 75% recovery rate from green containers or organic waste collection streams is not the same as a 75% reduction in disposal. Establishing that as a threshold for compliance with the regulation could mean that even compliant entities and jurisdictions could be missing the targets mandated in SB 1383 – perhaps by a	Thank you for the comment. The comment is not asking for a language change.

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		significant margin. In finalizing the rules and considering any additional potential flexibilities, especially as they relate to enforcement, it is critical to avoid any changes that would serve to weaken the commitment of any regulated entity to divert organic waste from landfills, which could make feedstock supply less certain and more costly.	
6013	Aguinaga, G., Harvest Energy Holdings LLC	No Delay: CalRecycle should set timely standards that do not delay implementation, send a strong signal to the industry that the agency will implement the rules on schedule, and thereby provide certainty to project developers about the timeline needed for infrastructure development and that feedstock will be available. Moving quickly to adopt the regulations in 2019 will maintain momentum among project developers and local governments who are already making significant investments in organics diversion and infrastructure. Their path to growth and feedstock availability must be clear, and can be ensured by adopting rules this year with strong targets and certain timelines. We strongly oppose any regulatory changes that would serve to delay the timing or weaken the stringency of the organics diversion targets.	Comment noted. Commenter expressing request for CalRecycle to not reduce requirements.
6014	Aguinaga, G., Harvest Energy Holdings LLC	Avoid Contamination: In order for organic waste to be effectively recycled or utilized as feedstock without adding significant costs, the waste stream must be free of contamination. CalRecycle should adopt strong rules and enforcement ensuring diverted organic waste streams are free of contamination from inorganic wastes. Allowances for 25% contamination in green containers or other organic waste streams and 25% organics in gray containers are both far too high, likely out of step with SB 1383 targets, and impose high costs that should be addressed upstream in the supply chain, rather than borne by the operator of a compost facility or anaerobic digester. While higher levels of contamination may be expected early in implementation, as communities and generators adjust to new rules, we should strive for much higher levels of ambition, and associated benefits, by phasing both of these numbers down to 5% over a period of 5 years. We appreciate the motivation for many of the flexibilities included in the revised text, but maintaining a clean feedstock stream is absolutely necessary for organics recovery projects, and the SB 1383 regulations themselves, to work. Contamination already hampers the state's recycling efforts, and we should take care to make sure it doesn't similarly inhibit or organics recovery efforts. As a general principle, CalRecycle should err towards higher levels of sampling, verification, and education and outreach early in the implementation process, and consider additional flexibility in the future if high compliance rates are demonstrated, rather than taking the opposite approach that would try to react to problems in the future or missed diversion targets, when that could have been prevented.	A change in language is not needed as this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction.
6015	Aguinaga, G., Harvest Energy Holdings LLC	Strong Enforcement: Strong enforcement is needed to hold all parties to account, ensure stringency and timelines are met, and avoid contamination of diverted organics feedstock with other waste materials. CalRecycle should prioritize and	Comment noted. Comment is expressing opinion and not regulatory text changes.

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		emphasize strong enforcement in its rules. We oppose changes that weaken oversight, enforcement, or penalties.	
6016	Aguinaga, G., Harvest Energy Holdings LLC	Develop Markets: Strong, but flexible, procurement requirements for products produced from diverted organics will ensure markets exist for products from organics infrastructure, serving to reduce costs and accelerate deployment of organics diversion projects. CalRecycle should set strong procurement requirements that allow local jurisdictions to decide which organic commodity to procure. We appreciate and strongly support changes made in the revised draft to allow for a wider array of recovered organics products to be procured, and we would oppose regulatory changes that would limit that flexibility or delay or weaken procurement requirements.	Thank you for your comment.
6017	Aguinaga, G., Harvest Energy Holdings LLC	Page 10, line 32: We strongly support the definition of “renewable gas” and allowing all uses of renewable gas to be counted towards compliance with the procurement requirements in the rules.	Thank you for your comment.
6018	Aguinaga, G., Harvest Energy Holdings LLC	Page 12, line 10: The revisions remove the definition of “violation” and changes many references in the chapter from “violation” to “offense,” but violation is still referenced in the chapter and “offense” is not defined. CalRecycle should ensure that the regulations clearly identify actions that constitute offenses to the rules and that strong deterrents are in place to avoid non-compliance.	A change to the regulatory text is not necessary. A text change is not necessary as "offense" is clearly explained in Section 18995.4 and 18996.9.
6019	Aguinaga, G., Harvest Energy Holdings LLC	Page 17, line 13; Page 19, line 25; Page 20, line 19; Page 22, line 8; Page 55, line 23: Provisions related to plastic bags and compostable plastics in the organic waste stream should be clarified to make clear that it is the organics in plastic bags being recovered, and not the bags themselves, and that compostable plastics do not need to be recovered in a differentiated way from other plastics. Compostable plastic does not break down in in-vessel digestion systems due to the lack of oxygen. And while automated pre- and post-treatment systems can separate plastics, they cannot distinguish among compostable or non-compostable plastics. We can process organic waste in compostable or non-compostable plastic bags, but we cannot guarantee that we will “recover” compostable plastic in any differentiated way from non-compostable plastic.	<p>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.</p> <p>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).</p> <p>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.</p>
6020	Aguinaga, G., Harvest Energy Holdings LLC	Page 22, line 11: Appears to contain a typo.	Thank you for the comment. CalRecycle has revised Section 18984.4(a)(4) to spell ‘material’ correctly.
6021	Aguinaga, G., Harvest Energy Holdings LLC	Page 22, line 34: This change would be a move in the wrong direction. In the near-term, sampling should be more frequent, not less. We suggest something even more frequently than quarterly, such as bi-monthly, during at least the first two years of implementation. If jurisdictions have demonstrated successful compliance,	The current frequency was established in response to robust stakeholder feedback regarding the cost of contamination monitoring. The current frequency is the least costly and burdensome approach and still achieves the necessary organic disposal reduction.

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		inspections could be reduced to quarterly, then semi-annually, and even annually after several years of continued compliance has been demonstrated. This is a successful model that has been demonstrated in Europe.	
6022	Aguinaga, G., Harvest Energy Holdings LLC	Page 24, line 17: A contamination rate of 25% in green containers is exceedingly high and is not the same as a diversion rate of 75%. While the alternate monitoring method described in the section [Section 18984.5(b)] identifies any contamination as a violation, the method here allows contaminants to account for one-quarter of the entire organics stream! If an alternate contamination minimization monitoring method is offered, it should be similarly stringent to container inspections, and should ensure compliance with the SB 1383 targets to reduce disposal of organics by 75% below 2014 levels. We suggest changing the threshold from 25% to 5%, which could be phased in over the course of about five years. For example, set a limit of 20% maximum contamination during the first two years of implementation, then 10% from years 3-5, then a 5% limit after 5 years. This would allow flexibility initially, but ultimately provide motivation for all parties to divert organics and minimize contamination. It would also serve to reduce costs, by minimizing contamination of the waste stream initially.	Comment noted, as stated in the previous comment CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. Additionally, numerous commenters posited that the 25% threshold will be difficult to meet. There is not sufficient data to justify a 5% threshold at this time.
6023	Aguinaga, G., Harvest Energy Holdings LLC	Page 24, lines 34-43: We suggest removing section (e), which offers a huge loophole that puts the state on track to miss the organics diversion targets in SB 1383. Recovering only 75% of the organics in green container and allowing for 25% organics in the gray container means jurisdictions could fall significantly short of the goals of SB 1383 to reduce organics disposal by 75% below 2014 levels. If CalRecycle does allow jurisdictions streamlined compliance through performance-based source-separated organic collection services, performance thresholds should, at a minimum, be in line with the requirements of SB 1383 – and ensure that no less than 75% of total organics are diverted from landfills. We suggest adjusting required recovery from green containers and allowable organic waste in gray containers accordingly, including reducing contamination allowed in green containers as described above and significantly lowering allowable organic waste in gray containers to 5%.	Comment noted, as stated in the previous comment CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. Additionally, numerous commenters posited that the 25% threshold will be difficult to meet. There is not sufficient data to justify a 5% threshold at this time.
6024	Aguinaga, G., Harvest Energy Holdings LLC	Page 25, line 41: We suggest changing the waiver for containers purchased prior to January 1, 2022 to January 1, 2020, and the date for full compliance from January 1, 2036 to January 1, 2025.	CalRecycle does not have the authority to implement requirements prior to January 1, 2022. 2025 would not provide sufficient time for jurisdictions to retire existing containers in circulation. See statement of purpose and necessity for Section 18984.7 regarding container retirement dates.
6025	Aguinaga, G., Harvest Energy Holdings LLC	Page 27, line 10: We appreciate offering flexibility to businesses, however, this provision offers a huge loophole that could unnecessarily delay implementation of organics collection at some of the biggest generators for 15 years. We suggest changing the waiver for containers purchased prior to January 1, 2022 to January 1, 2020, and the date for full compliance from January 1, 2036 to January 1, 2025.	CalRecycle does not have the authority to implement requirements prior to January 1, 2022. 2025 would not provide sufficient time for jurisdictions to retire existing containers in circulation. See statement of purpose and necessity for Section 18984.7 regarding container retirement dates.
6026	Aguinaga, G., Harvest Energy Holdings LLC	Page 29, Section 18984.12: We appreciate the need for flexibility in sparsely populated or rural counties, but disagree with the need to exempt those at high elevation. Bears don't distinguish between gray and green containers. We oppose	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

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6027	Aguinaga, G., Harvest Energy Holdings LLC	Page 33, line 19: Appears to be a typo	Thank you for the comment. CalRecycle has revised Section 18985.1(b) to delete the second ‘to.’
6028	Aguinaga, G., Harvest Energy Holdings LLC	Page 47, line 2: We suggest deleting the word “permit.” Many existing facilities have permits to process much more waste than they do, but permitted capacity may never materialize due to other constraints. Capacity planning based on existing permitted capacity that is unlikely to materialize would lead to insufficient infrastructure to accommodate the SB 1383 targets.	CalRecycle has revised Section 18992.1 in response to this comment to delete ‘permit.’ This change is necessary because a facility permit is not an indication of capacity available to a jurisdiction, it is just a statement of the amount of material an individual facility is authorized to process, it is not linked to individual jurisdictions.
6029	Aguinaga, G., Harvest Energy Holdings LLC	Page 50, line 19: Early planning will facilitate meeting the targets of SB 1383. We encourage CalRecycle not to delay implementation and to require initial capacity planning report by February 1, 2022, as originally proposed.	CalRecycle amended the capacity planning requirement to allow jurisdictions until August 1, 2022 to report capacity plans as that is in alignment with the timing that capacity plans are required under AB 876 (2016).
6030	Aguinaga, G., Harvest Energy Holdings LLC	Page 51, line 32: We strongly support expanding the available use of renewable gas beyond transportation fuel. <b>We suggest edits that ensure that this clause does not limit against any other potential beneficial use of renewable gas that may emerge in the future, by adding “or any other beneficial use” here.</b>	CalRecycle disagrees with the proposed language recommending “any other beneficial use” of renewable gas for Article 12. This definition is consistent with statutory language per SB 1383 Section 1(b) that mandates the adoption of policies for beneficial uses of biomethane 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. There is an unlimited number of “other beneficial uses” which would each need a conversion factor. The commenter does not propose a definition of “beneficial” it is therefore unclear who would determine activities or uses that are beneficial, and what objective factors would be used to make such a determination. Each end-use must have a conversion factor so that the procurement can be accounted for. 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.
6031	Aguinaga, G., Harvest Energy Holdings LLC	Page 54, Article 13: We support the original reporting date of February 1, 2022 and requiring jurisdictions to report on progress to comply with container color requirements, as included in the original draft regulatory language.	A change to the regulatory text is not necessary. The text was revised in the 45-day comment period due to stakeholder comments.
6032	Aguinaga, G., Harvest Energy Holdings LLC	Page 65, line 1: <b>We oppose this addition and suggest deleting subsection (4).</b>	A change to the regulatory text is not necessary. The Department added an additional 12-month extension to the Corrective Action Plan to assist jurisdictions dealing with inadequate capacity of organic waste facilities. It is unclear what the basis of the commenter’s opposition is.

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6033	Aguinaga, G., Harvest Energy Holdings LLC	<p>Page 93, Article 17: Streamlined compliance associated with performance-based source-separated organic waste collection service should only be offered if there remains stringent oversight and enforcement and if performance is clearly above the requirements of SB 1383, which is not the case in article 17. <b>We suggest deleting article 17 and the option for a performance-based source-separated organic waste collection service.</b> If CalRecycle ultimately does include a performance-based option, it should require demonstrated performance that exceeds the requirements of SB 1383. Requirements for processing organic fractions from green containers and allowable organic fractions in gray containers should be set at levels that ensure, at a minimum, a 75% reduction in organics disposal compared to 2014 levels, as recommended above. Jurisdictions should also still have strong inspection and education and outreach programs to reach all generators, and a mechanism to ensure they are complying with the intent of the regulations and avoiding contaminating organic waste streams.</p>	<p>Comment noted. The performance requirements established in Article 17 are designed to meet or exceed the level of compliance achieved by jurisdictions that are not implementing a program subject to Article 17. The standards that apply to jurisdictions implementing a performance-based source separated collection service are sufficient to achieve the statutory targets and these standards subject to oversight and enforcement.</p>
6034	Aguinaga, G., Harvest Energy Holdings LLC	<p>Page 94, line 7: Organic waste composition of 25% in gray containers is exceedingly high, representing missed opportunity to recover and utilize organic waste, and is not necessarily equivalent to diverting 75% of organics. We suggest adjusting this value down to 5%.</p>	<p>Comment noted. CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. The minimum performance standards that apply to material collected in the green containers in a performance-based source separated organic waste collection service, ensure that collected organic waste is recovered to the minimum degree necessary for the state to achieve the organic waste reduction targets established in statute. This section is necessary to ensure that addition to the requirements that organic waste that is collected in green containers is recovered, a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. 25 percent was established as a threshold to mirror the intent and the 75% organic waste diversion threshold established in statute.</p> <p>Absent this section, a jurisdiction would only be implementing a performance-based source separated organic waste collection system and generating 100 tons of organic waste would only need to send the material collected in the green container to a facility that can recover 75 percent of the material in the green container. If the jurisdiction only collects 50 tons of organic waste in the green container and sends it to a facility that recovers 75 percent of that material, up to 50 tons could be sent directly to disposal in the gray container. Removing this section would compromise the state's ability to achieve the organic waste reduction targets.</p> <p>Further, jurisdictions implementing a performance-based source separated organic waste collection system, are not subject to the strict education and outreach requirements prescribed in Article 4. This exemption is premised on the jurisdiction's existing education programs being sufficient to meet or exceed the state's minimum standards. The organic waste threshold measured in the gray container is a key indicator of the efficacy of the program.</p>
6035	Aguinaga, G., Harvest Energy Holdings LLC	<p>Section 17409.5.7 Page 119, line 30: During the early years of implementation, gray container sampling should be more frequent than quarterly. As compliance is demonstrated,</p>	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. The gray container waste</p>



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		<p>sampling can be made less frequent. We suggest a similar schedule as outlined above, where sampling would be bi-monthly for at least the first two years, and can be shifted incrementally to quarterly, semi-annually, and maybe even annually after continuous compliance is demonstrated.</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. 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>
6036	Aguinaga, G., Harvest Energy Holdings LLC	<p>Page 137, lines 12-14: The items required to be reported here may not be feasible, if for example an off-taker has a long-term contract distributing compostable material to multiple end users. <b>We suggest deleting the requirements included in items (6) and (7).</b></p>	<p>CalRecycle has revised Section 17896.45 in response to comments. The section was revised to delete Subsections (6) and (7). These subsections were replaced with the requirement that the operator maintain a records of the total weight of compostable material that is sent to any destination not a permitted solid waste facility or operation. This was necessary to lessen the burden on the operators from collecting information that may not be readily available to them. This change requires operators to include information they should already have available into the records maintained under the existing regulations. This is necessary to ensure that the material sent off to a destination that is not a permitted solid waste facility was processed to a level that meet the physical contaminates limits standards.</p>
4698	Amaya, East Yard Community for Environmental Justice	<p>The proposed text, however, leaves it unclear whether waste incineration -- ‘Transformation’ as defined in the Public Resources Code Section 40201 -- will qualify as an eligible diversion technology. We are afraid that such lack of clarity can lead to reliance on municipal solid waste incinerators, as jurisdictions like the City of Long Beach or Stanislaus County could seek CalRecycle’s approval for waste incineration in an attempt to find a faster path to achieve the diversion target, while proceeding with establishment of composting programs. Trash incineration produces large quantities of nitrogen oxides (NOx), lead, mercury, dioxins at a higher rate than coal, and emits greenhouse gases at an average rate that is 68 percent higher, per unit of energy delivered to the grid, than coal plants. The air emissions can cause cardiovascular risks, premature death, reproductive harms and cancer as well as respiratory diseases such as asthma. Even the most advanced pollution control devices can’t eliminate toxins, as approximately 30% of air pollutants still remain as fly ash, bottom ash, boiler ash, slag and wastewater treatment sludge, poisoning the soil and groundwater, deposited in landfills for generations to come. It was also highlighted in a recent report published by The New School that 8 of 10 Municipal Solid Waste incinerators in the U.S. are located in lower-income communities or/and communities of color air pollutants. Air pollutants from the incinerators contribute to and exacerbate cumulative impacts that exist in many environmental justice communities where the population is already overburdened and vulnerable.</p> <p>The draft bill also recognizes and incorporates the role of biomass conversion facilities, another kind of incinerators, as one of the eligible diversion facilities. Biomass incineration, which uses organic feedstocks such as wood chips, construction debris, forest waste, agriculture waste and municipal waste, destroys</p>	<p>As provided in section 18983.2(a)(3), a proposed operation may constitute a reduction in landfill disposal only if the process or technology results in a permanent reduction in lifecycle greenhouse gas emissions equal to or greater than 0.30 MTCO<sub>2</sub>e/short ton. It has not yet been established that any incineration facilities meet this standard. Emissions of criteria pollutants and toxic air contaminants from stationary sources, including those generated by solid waste and biomass incineration facilities, fall under local air district jurisdiction and will need to follow the appropriate siting and permitting requirements before a new facility can be constructed or placed into operation. CalRecycle is not proposing any revisions to the regulatory text in response to the commenter’s concerns, not because the concerns are invalid, but rather because the requested changes go beyond the stated purpose of this regulation, which is to establish requirements to achieve the organic waste disposal reduction targets codified in Section 39730.6 of the Health and Safety Code and Chapter 13.1 of Division 30 of the Public Resources Code.</p>

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		<p>resources that would better be conserved or recovered through composting. It emits similar or greater amounts of air pollutants compared to burning fossil fuels, including coal. According to the analysis conducted by Partnership for Policy Integrity, biomass burners are more polluting than natural gas and are similar to coal, especially in the case of particulates and nitrogen oxides (NOx). Despite being major air polluters, biomass facilities are considered renewable and carbon neutral, which not only lacks scientific grounds, but also contradicts the best practices that California has set on advancing zero waste alternatives for clean air, economy, health, and the environment.</p> <p>Waste incineration in any form remains the most carbon intensive, toxic, and expensive way to dispose of waste and generate electricity, and continues to disproportionately impact environmental justice communities across the nation. <b>In order to ensure that cities establish and scale up source separation and composting, the regulations must explicitly exclude municipal solid waste incinerators and biomass incinerators from eligible diversion facilities.</b> In addition, we respectfully request that CalRecycle addresses environmental justice issues such as proximity to communities burdened with very high CalEnviroScreen scores, disproportionate health impacts of waste burning facilities, and the need to reassess U.S. EPA’s rule on carbon neutrality in the process of rulemaking and implementation of SB 1383. East Yard Communities for Environmental Justice, Global Alliance for Incinerator Alternatives, and their allies will stay committed to providing additional support for the state’s efforts in reducing climate pollution through systemic shifts toward zero waste.</p>	
3049	Astor, K., LA County Waste Management Assn., Inland Empire Disposal Assn., and Solid Waste Assn. of Orange County	<p>The draft regulations provide a much greater role for CalRecycle than previously seen. The draft regulations place your agency in a position of dictating, by prescription, very minute details of how every facility or program used to recycle or compost organic materials will operate. Your agency has determined this shift in responsibilities to be necessary, but our members deem the approach to be seriously flawed.</p> <p>One consequence of this shift in direction is that there is not adequate regard for the economic impacts of your decisions. The regulations appear to simply presume that the costs they impose will be overcome, without any evidence to support that belief. For example, we have written to CalRecycle on three previous occasions to urge that you not adopt performance standards for organics processing facilities that are unattainable, and which will have the effect of rendering certain facilities ineligible to receive and process organic wastes, yet the regulations continue to do precisely that. This ignores the fact that many of these AB 939 facilities are performing precisely as they were designed, are contributing to AB 939 diversion efforts, and are processing far more material than is the case under a dual stream or even a single stream approach which isolates organics.</p> <p>We have cautioned that in certain cases, these facilities have been privately financed with construction loans, portions of which remain unpaid, and they cannot</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. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.” 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: “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</p>

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		<p>be repaid on a timely basis unless the facility is allowed to continue operating as it was designed for a reasonable period of time. The regulations make no allowance for this fact. Rather than providing some form of realistic transition period to move toward another form of processing, one which allows the facility operator to recover its development and construction costs, the regulations instead threaten to strand that investment by prematurely depriving these facilities of the opportunity to perform organics processing over the full loan term.</p> <p>Consider the chilling effect this may have in terms of future facility financings. We urge that CalRecycle consider, as well, the fact that in several areas of the state there may not be adequate replacement capacity for processing organics. Thus, you are simultaneously accelerating the closure of existing facilities with little or no regard for the existence of identifiable and practical alternatives. We know better than most that the lead time and other constraints entailed in siting and constructing an organics processing facility are substantial, and concerns over mitigating air quality impacts make the development of such facilities far more expensive than in the past.</p> <p>In the current regulatory climate, it would be difficult to simply replace or upgrade the existing network of facilities, let alone to develop the additional capacity that is needed to meet the ambitious goals of SB 1383. The Public Resources Code, at Section 40004, explicitly recognizes the need to sustain and expand the network of AB 939 facilities to meet future diversion requirements. Regrettably, the draft regulations steer us in the opposite direction.</p>	<p>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. 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. 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)...” 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: “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. 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</p>

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			<p>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.” 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. 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. 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. 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. 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>
3050	Astor, K., LA County Waste Management Assn., Inland Empire Disposal Assn., and Solid	There is universal recognition that the goals of SB 1383 will not be met within the timetables established in these regulations. The additional processing capacity that is needed will not be brought on line, and the sustained operation of many of the facilities comprising the existing network is threatened. It is not too late to alter	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

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	Waste Assn. of Orange County	<p>course. We renew our earlier requests that the draft regulations be modified in at least three critical respects:</p> <ul style="list-style-type: none"> <li>• First, allow for the continued operation of facilities in the existing network that may not qualify for your definition of "high diversion organic waste processing facility" until the facility in question has paid off the loans used to construct or upgrade the facility, at least insofar as these loans predate the enactment of SB 1383. Anything less operates as a penalty on those investing in recycling infrastructure who had no expectation their facility would be suddenly rendered unsuitable by regulatory fiat, and will discourage the further investment that is needed to develop new and additional capacity.</li> <li>• Second, acknowledge the importance of markets in closing the recycling loop. This is the lesson of National Sword, which applies as well to the organic waste stream. All of the processing capacity in the world will not lead to the recycling results you seek if adequate markets are nonexistent. This acknowledgement should come in the form of qualified relief from the enforcement provisions of the regulations where a market failure occurs and is not the fault of the jurisdiction or hauler.</li> <li>• Third, provide for a form of "good faith effort" analogous to what now appears in AB 939. A failure to meet the demands of these regulations may result from circumstances that are utterly beyond the ability of a hauler or jurisdiction to control.</li> </ul> <p>When we have put forward these recommendations in the past, one of the responses we have often received is that the statute underpinning the regulations does not confer this authority. We disagree. In any event, whether or not Calrecycle has adequate authority is somewhat beside the point, and the reality of the situation cannot be ignored. Stakeholders and regulators alike share in the same commitment to process and market organics to achieve the corresponding SLCP reductions. If additional statutory authority is indeed required, your department should be at the forefront of those advocating for a modest course correction to achieve the desired goal. Nearly every year after AB 939 was first enacted, it was modified after consensus was reached that change was required. Oftentimes, the former CIWMB actively promoted needed change. We respectfully submit the same approach ought to apply here.</p>	<p>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. Under 18996.2, enforcement of penalties may be delayed for up to three years if the standards of that section are met. 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. 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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: "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. 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. 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</p>

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			<p>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)..." 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: "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. 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." 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. 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</p>

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			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. 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.
4204	Astor CRRC South	Some of the concerns expressed in our prior correspondence have not been completely addressed or resolved. Accordingly, we respectfully submit this letter with the understanding and express intention that all of our prior communications be incorporated by reference and deemed a part of this filing for consideration and response.	Comment noted. Comments that are germane to the text or documents released for comment in a particular comment period are considered and will receive a response as required by the Administrative Procedure Act. Likewise, for comments in letters "incorporated by reference," if the previously referenced comments included in those letters were germane to the substance of the text or documents released for the comment period in which they comments were submitted in, the comments were considered and a response is included.
4205	Astor CRRC South	<p>Prescriptive Approach</p> <p>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 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. While some of the changes in the regulations attempt to reduce the fiscal impact, we note that some of the new eochanges may in fact have major fiscal impacts that were not evaluated in the SRIA thus having the potential to exacerbate the costs of this regulation.</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.
4206	Astor CRRC South	<p>Good Faith Effort</p> <p>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 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.</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.

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		<p>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.</p>	
4207	Astor CRRC 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.</p> <p>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 California, and the State of California has not been included in the procurement requirement of this regulation. 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>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. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.” 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: “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. 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. 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</p>



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			<p>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)...” 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: “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. 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.” 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. 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. Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short</p>

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			<p>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>
4208	Astor CRRC South	<p><b>Current Facility Impact</b>  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. We have recommended in our prior comments and direct communication with CalRecycle various approaches to incorporate these facilities in the SLCP rulemaking and establishing criteria for compliance. To date, those issues remain unanswered. We urge consideration of these facilities as you continue to evaluate appropriate waivers and exceptions to the rulemaking.</p>	<p>Comment noted. This rulemaking does not put performance standards on facilities relating to organic waste diversion. Instead, it places measurement requirements on facilities that were crafted pursuant to stakeholder feedback. Jurisdictions are required, for example with mixed waste collection systems, to route waste to high diversion organic waste processing facilities meeting a 75% diversion standard. However, that standard is not mandatory on all facilities. It may be, rather, an incentive for facilities to increase efficiency in order to draw business.</p>
4209	Astor CRRC South	<p><b>Future Facility Development</b>  We also are concerned about the chilling effect this shift may have in terms of all 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</p>	<p>Comment noted. This rulemaking does not put performance standards on facilities relating to organic waste diversion. Instead, it places measurement requirements on facilities that were crafted pursuant to stakeholder feedback. Jurisdictions are required, for example with mixed waste collection systems, to route waste to high diversion organic waste processing facilities meeting a 75% diversion standard. However, that standard is not mandatory on all facilities. It may be, rather, an incentive for facilities to increase efficiency in order to draw business.</p>

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		<p>facilities by essentially “grandfathering” them. Additionally, we have organics waste processing facilities that have been under construction since 2011 and are just now starting the EIR process. These will also contribute to the goals established by the SLCP regulation, but clarity is needed as the completion of these projects is not known and clear guidance is needed to accommodate these communities whenever they come on-line.</p>	
4210	Astor CRRC South	<p><b>Disadvantaged Community Consideration</b>  Throughout this rulemaking process there has not been a direct connection to the existing statutes that underlay the cap and trade program. In 2012 the Legislature passed SB 535. In addition to reducing greenhouse gas emissions, SB 535 required that 25 percent of the moneys allocated from the Greenhouse Gas Reduction Fund (GGRF) must go to projects and provide a benefit to disadvantaged communities, with 10 percent directly expended in those communities.  CalEPA was required to identify those disadvantaged communities based on geographic, socioeconomic, public health, and environmental considerations, with an emphasis on communities that have low income, low home ownership, high unemployment, and are disadvantaged, to name a few.  Many of our Southern District members’ service areas are considered low income and disadvantaged communities under various statutes, including but not limited to, AB 1550, SB 535 and AB 617. The regulation does not adequately 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 are central to the entire program’s goals to reduce emissions of greenhouse gases.  We believe the regulation should have commenced with identifying those communities first using the tools prepared by the state, such as the CalEnviroScreen tool, to accommodate and “do no harm” to those communities that could be affected. We are concerned this regulation will further make a disadvantaged community an economically disadvantaged one under this regulation. We do not believe it was envisioned that this program be implemented with penalties and additional jurisdictional requirements to be placed on the communities and its residents that have the fewest resources. <b>We urge a two-tiered approach to the entire regulation that provides an alternative pathway for these identified communities.</b></p>	<p>SB 1383 states no legislative intent to square the proposed regulations with the statutes described in the comment. These regulations were directed to achieve the organic waste diversion requirements and provided broad authority to CalRecycle to do so.</p>
4211	Astor CRRC South	<p><b>Jurisdictional Disparity</b>  We appreciate the various conversations around alternative pathways and the exceptions and waivers envisioned to be granted, as well as Emergency Circumstances. However, we are very concerned about the patchwork application of the regulations, specifically in Articles 3 and 12, and the inconsistencies caused due to the unique circumstances of each jurisdiction. There is nothing in these Articles that provides equity for all jurisdictions. An example of this is a city that is primarily commerce and industry – it has a low population but disposes about 2,000 ton of</p>	<p>With respect to Article 3, each jurisdiction has flexibility to determine which collection method best fits its community. There is even a performance-based approach in Article 17 that was added to provide additional flexibility. The population-based procurement target is intended to result in proportional targets for each jurisdiction, therefore the argument for comparing cities is not valid. The metric that applies to each city is the same statewide. Similarly, the argument that a city’s employees “are not accounted for” is not valid because those employees are residents in a jurisdiction somewhere and are accounted for in that population. Counting one city’s employees and another city’s population, based on the commenters perceived lack of equity would result in</p>

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		<p>organics. It has no impact in SB 1383 as proposed to be implemented. Conversely, another city – higher population but low organics disposal tonnage due to the uniqueness of its population – has major impacts because of the way the regulations are written. Reflecting on the objectives of reducing greenhouse gas emissions (SLCP), this example would lead to the wrong efforts in enforcement and thus make no contribution to greatly reduce greenhouse gas emissions. This is just one example; there are any number of such situations, and the regulations need some measurement of uniformity. <b>While we all support the goals and objectives of SB 1383, we believe that CalRecycle should allow local jurisdictions the flexibility to determine the approach that fits their communities.</b></p>	<p>double counting of individuals. The commenter does not propose a method for adding additional flexibility that would also result in sufficient reduction in disposal of organics and recovery of edible food to meet the statutory goals by 2025.</p>
4212	Astor CRRC South	<p>Materials Recovery Facilities Subdivision (a)(2)(B) of Section 18983.1. Landfill Disposal and Recovery provides that before MRF fines may be used for cover material and not constitute disposal of organic waste, it must be demonstrated that the fines “do not include organic waste.” This provision appears to contemplate an organics threshold of absolute zero, meaning that the presence of even relatively incidental amounts of organic material will render the material ineligible. While we understand your desire to limit the amount of organic materials in MRF fines, an absolute zero requirement is not practical. All MRFs, even those handling only source-separated material, will see an organic component in their disposal feedstock. No amount of public education or enforcement efforts, and no known methods or technology, can totally remove organic materials from MRF fines. This is due, in part, to the fact that MRF mechanical separation processes identify (screen) material by size, not by type.</p> <p>We urge that you offer a different standard that is more reflective of what can actually be achieved. It is critically important to sustain the use of MRF fines as ADC, particularly in Southern California, where the market impacts of AB 1594 (green waste applied as ADC will no longer be eligible for diversion credit effective January 2020) will be profound.</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>
4213	Astor CRRC South	<p>In this connection, it is worth noting that elsewhere in the draft regulations, the new requirements for performance-based source separated collection services (Article 17) recognize a 25% organics maximum applied to the gray container collection stream, measured by weight of total solid waste collected annually. We appreciate this change. While MRFs receiving single stream recyclables tend not to process gray can contents, and their fines therefore do not result from gray can processing, contamination of the blue (recycling) can with organic material remains a problem that our members confront on a daily basis. We submit that the same reasoning which led CalRecycle to recognize organics contamination in gray cans should apply (albeit differently) to contamination of blue cans and the resulting MRF fines.</p>	<p>Comment noted. The commenter is not requesting a change.</p>
4214	Astor CRRC South	<p>Further, after decades of experience with AB 939 implementation, we have found that cross-contamination of recyclable materials has been a particular problem in low income and economically disadvantaged communities like those which are the</p>	<p>It is unclear from the comment how MRF fines are related to AB 617 and disadvantaged communities. CalRecycle removed language specific to the use of MRF fines alternative daily cover. Additionally, with respect to the comments related to consumers subscribing to the lowest</p>

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		<p>focus of AB 617. This occurs because of cost impacts. All consumers tend to subscribe to the lowest level of service possible, which often means smaller containers that may be inadequate to meet seasonal need. The issue is particularly acute in these low income areas, where residents are most vulnerable to cost. When a consumer has reached capacity in his/her green waste container, they will place their extra green material in any other can with available space.</p> <p><b>As a result, we suggest that the regulations be amended to include two standards for acceptable organics content in MRF fines, one for AB 617 communities and another applied to all other jurisdictions.</b> In terms of where to set those standards, much depends on whether the allowance will be volume-based, or weight-based. Because organic materials tend to be far heavier than other waste stream components, if a weight-based standard is used it will need to be higher than if a volumetric standard is used. A weight-based approach may be preferable simply because these loads are all weighed at the landfill. Accordingly, we propose a 15% allowance for organic material in MRF fines applicable jurisdictions generally, and 20% for AB 617 communities, using a weight-based approach.</p>	<p>level of service resulting in increased contamination, the regulations require monitoring contamination. and if contamination is found, then providing education to customers</p>
4215	Astor CRRC South	<p>Disenfranchising Existing Infrastructure and Investments</p> <p>We remain deeply concerned about the impact these regulations will have on solid waste facilities currently in existence that may not be capable of meeting the high organics diversion performance requirements now being proposed. As Public Resources Code Section 40004 makes clear, the existing facility network is a valuable asset that contributes greatly to the state’s environmental objectives. Though originally designed to meet the AB 939 diversion requirements, the network continues to provide significant benefit, a fact that the draft regulations completely overlook. We also know that the lead time to permit and construct facility upgrades or replacement capacity is several years, to say nothing of the new organics processing capacity that CalRecycle’s own studies reveal is necessary.</p> <p>When all of this is added to the reality that many of the existing facilities are not yet fully paid off, having been financed over terms of 20 years or more, we question the advisability of moving forward with new facility performance requirements that will have the effect of rendering some facilities ineligible to receive and process organic material. To risk the premature closure or underutilization of these assets is unwise; it is only fair that they should be given some form of temporary “grandfather” or similar status, perhaps on a case-by-case basis, to allow for temporary but sustained operation and thus the recovery of their development costs. Your objective should be to encourage further facility development, and you are doing the opposite by strictly adhering to performance requirements without adequate phase in.</p> <p>Finally, the problem is exacerbated in those instances where some of these same targeted facilities operate in, or are serving, rural or economically disadvantaged</p>	<p>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. The performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.”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: “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</p>

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		<p>communities that may have no other feasible option in the near term for meeting their organics processing needs. <b>We respectfully urge, once again, that the regulations be revised to allow these facilities to continue in operation for a period of time sufficient to enable them to retire their debt, and until a suitable replacement is found.</b></p>	<p>helps ensure that organics are kept clean, separate and recoverable. However; throughout the informal regulatory engagement process stakeholders raised concerns about potential costs associated with providing commercial and residential generators with a third container to 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. 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)..." 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: "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. 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." CalRecycle has, prior to and during this rulemaking, communicated that the recovery efficiency requirements established in the regulation is the</p>

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			<p>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. 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. 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. 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. 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>
4216	Astor CRRC South	<p>Consequences of Unregulated Activity  Nearly every exclusive franchise agreement and corresponding municipal code contains exclusions, which typically include the right to self-haul solid waste. In most cases, self-haulers operate with little, if any, oversight. Municipal budgets simply do not make adequate allowance for code enforcement, so little is known about whether the person claiming to operate under a self-haul exclusion is actually performing within the limits of the exclusion. For example, landscapers and construction contractors are often asked to haul away solid waste that does not result from their activities, and they do so despite a prohibition against this additional service. The same occurs with junk removal firms that may include</p>	<p>Commenters asked CalRecycle to consider whether the definition 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.</p>

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		<p>organic materials in their removal service. If these firms are obligated to report, this may help curtail abuse, or will at least provide an enforcement opportunity where they are caught. Further, if CalRecycle seeks accurate numbers in terms of the handling of organic waste material, it should not exempt self-haulers from the reporting requirements of this regulation.</p> <p>As the costs of SB 1383 compliance are added to existing waste collection rates, thereby increasing those rates, this will likely drive even more customers to use “self-haul” as a means of avoiding or mitigating the impacts of the cost increase. Self-hauling by unregulated firms seeking the lowest cost disposal option means more disposal and less diversion where landfill rates are cheaper than MRF processing rates, and this can result in skewed RDRS reporting with attribution to the wrong jurisdiction. This has been a particular problem in communities that host landfills. Even if the material is properly attributed to the jurisdiction of origin, the franchisee is often made to bear the blame even though the material was not collected under the franchise program. Unregulated self-haul can also lead to an increase in illegal disposal activities and the associated health and environmental risks. <b>For these reasons, self-hauling solid waste should not be encouraged, and where it must be allowed, it should be better regulated and enforced.</b></p>	
4217	Astor CRRC South	<p>Measurements Standards and Protocols for Reporting/Enforcement The prescribed measurements standards and protocols of Section 17409.5.2 through 17409.5.8 do not produce credible results for reporting and enforcement purposes. The problem lies with disproportional weights and densities of organic waste and incompatible materials. As an example, using the formula to determine percentage weight ratios between organic waste versus light weight plastics and other light weight incompatible materials often results in erroneous percentage calculations because of unequal weight/volume ratios. In other words, if the volume of light weight incompatible materials is large but weighs much less than the smaller organics fraction, an erroneous weight-based result may have occurred. <b>The calculated disposal of the organic waste fraction will appear to violate the regulatory thresholds of the percentage measurements by appearing to be a greater percentage result than a better form of analysis would negate with a true weight to volume measurement.</b></p>	<p>A change to the regulatory text is not necessary. The methodology described in Sections 17409.5.2 through 17409.5.8 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.” Taking a random composite samples will be leveling the daily variations due to the fluctuations in the amount of incompatible material in the sample and provide a more representative weight.</p> <p>In addition, Section 17409.5.9 allows the EA, with concurrence by the Department, to approve alternatives to measurement protocols described in Sections 17409.5.2 through 17409.5.8. 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>
4218	Astor CRRC South	<p>Procurement and Compost End-Uses We appreciate the expansive additions to Article 12 in this second draft, including the Model Water Efficient Landscape Ordinance (MWELO), the renewable natural gas uses, biomass, and the alignment with the PRC for paper procurement. We believe it is imperative that Article 12 procurement provisions be expanded to reflect the preferred uses of compost and compost end-use’s by each jurisdiction. We are concerned that, absent specific recommendations in the regulation, it will default to a per capita compost give-away. The entire policy directive, including</p>	<p>Compost is only one of the recovered organic waste products a jurisdiction may procure to fulfill their procurement target. The procurement requirements are designed to provide flexibility, as CalRecycle recognizes the diversity of jurisdictions across California. Not all jurisdictions need compost, and it would be unnecessary and burdensome to require it for every jurisdiction.</p>



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		<p>building healthy soils, promoting healthy communities and improving and enhancing environmental quality, is dependent on “getting this right.”</p> <p>We have offered two specific recommendations in the matrix under Article 12 to assist the development of these markets. CRRC Southern District also completed a survey of jurisdictions in our southern district, and <b>we offer the attached chart (Attachment A) focused on jurisdictional compost uses and compost end product uses as guidance for further development.</b> We encourage further collaboration to expand the procurement offerings.</p>	
4219	Astor CRRC South	<p>Performance-Based Source-Separated Organic Collection Services</p> <p>Article 17 is new substantive language in this regulation in the Second Formal Draft, and we certainly appreciate the concept of an alternative pathway for compliance identified as a performance-based source separated organic collection service.</p> <p>We encourage consideration be given as to how this would be implemented and then delineate that in these regulations. <b>It seems prudent that it must be developed and implemented by adopting a local jurisdiction ordinance consistent with Article 9 and other lawful requirements to satisfy the requirement for procedural due process.</b> This should be done in a public hearing(s) by the local jurisdiction governing body to allow for due process in accordance with established rules and principles. Further, we believe the ordinance will have to go through a full CEQA review to disclose unintended environmental consequences prior to adoption.</p>	<p>Comment noted. The comment does not recommend or request a specific change to the regulatory text.</p>
4220	Astor CRRC South	<p>STATUTORY BACKGROUND AND SCOPE OF LAW</p> <p><b>We would like to once again reiterate our concerns about the relationship between these regulations and SB 1383.</b> We want to reinforce this section of our letter concerning statutory background and scope of law with our comments from our letter, dated March 4, 2019 (please see Attachment B). We feel compelled to highlight the lack of a proper relationship between these regulations and the statute that gave rise to them.</p>	<p>The regulations are within the scope of the statute. 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. 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.” 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</p>

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			<p>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. 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.” 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. 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.” 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 timeline and robust enforcement of regulatory requirements is essential to meeting those mandates. 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.” 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</p>

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			<p>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.” 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: (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. 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>
4221	Astor CRRC South	<p>SB 1383 is a significant departure from the regulatory framework established under AB 939 in 1989. As has been noted by CalRecycle, the success of the SLCP mandate will require active participation from state, local jurisdictions, haulers, recyclers, businesses both large and small, consumers, residents, and impacted disadvantaged communities. As has been framed in our comments and observations, we remain concerned that many of these stakeholders have not been expressly represented in the regulatory framework, and we continue to request a more measured approach be taken to the development of SB 1383 regulations.</p>	<p>Comment noted. This rulemaking was extensively noticed and was subject to two years of informal workshops with stakeholders leading up to the formal rulemaking process.</p>
4222	Astor CRRC South	<p>As we have mentioned in our past communications, a new RDRS reporting requirement and enforcement mechanism established by AB 901 is just now going into effect. The regulation’s implementation impacts are unknown. As is acknowledged, many of the components of AB 901 are incorporated in this regulatory package by inference and definition. The layering of AB 901 and SB 1383 regulatory processes back-to-back is of concern without known workability in the market place.</p>	<p>Comment noted. CalRecycle is mandated by SB 1383 to adopt regulations to meet specified statutory goals and does not have the option of waiting until any potential adverse effects of the RDRS regulations are known. However, CalRecycle has endeavored to minimize any conflict or adverse effects by incorporating the requirements of RDRS regulations into the SB1383 regulations.</p>
4223	Astor CRRC South	<p>We continue to recommend that CalRecycle convene a stakeholders working group with affected parties to facilitate the many changes that are needed in the regulations and metrics to obtain the goals required by the statute.</p>	<p>Comment noted. Commenter is not requesting a change in regulatory language. Convening the stakeholder working group as suggested by the commenter is not within the scope of these regulations.</p>
4224	Astor CRRC South	<p>Key issues associated with increasing actual recycling capacity and diversion include quantifying the co-benefits and the GHG emission reduction benefits of applying</p>	<p>Comment noted. Comment is not commenting on the regulatory language.</p>

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		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.	
4225	Astor CRRC South	<p><b>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.</b></p> <p>Additionally, a recent evaluation of the Cap and Trade program by the Legislative Analyst’s Office (LAO) reinforces <b>the need for the nexus</b>. 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, <b>impacts the “goals” being obtained.</b></p>	As it pertains to CalRecycle, SB 1383 does not require 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.
4226	Astor CRRC South	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, 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 under SB 1383. The 2018 Waste Characterization Study should provide appropriate criteria specific to SB 1383 for measurement and assessment of needs to be statutorily updated as part of the 2020 (PR Section 42653) analysis.	<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>
4227	Astor CRRC South	The statute is quite clear that jurisdictions <b>may</b> impose penalties and other regulatory mechanisms and <b>does not</b> 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 SB 1383, it does not seem that the state has the authority to require civil penalties on residential and commercial customers.	<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> <p>Regarding authority, 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</p>

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			<p>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 local jurisdictions to impose requirements. These requirements must be enforceable through penalties or: (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>
1009	Ayer, Jacqueline The Action Town Council	1) Private property owners lack the means of confirming whether the mulch and/or compost material they receive is in fact "clean"; the only thing they can do is hope that the laboratory report they receive from the material supplier is legitimate and	CalRecycle has deleted this Section 18083(c) in response to comments.

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		<p>that the material is indeed "clean". The proposed regulations ignore all these limitations and instead place an enormous compliance burden onto individual property owners who are simply incapable of achieving compliance.</p> <p>2) The proposed regulation shifts much of the compliance burden from the organic waste processors onto private property owners, thus it reduces the producers' incentive to ensure that the mulch and compost materials which they deliver are indeed "clean".</p> <p>3) Given the risk and the compliance burden that these regulations impose on private property owners, it is unlikely that they will accept significant quantities of mulch or compost even from licensed facilities. Such circumstances will make it much more difficult for the State of California to achieve the aggressive organic waste diversion goals that have been established.</p> <p>Therefore, the Acton Town Council respectfully requests that you modify the proposed in a manner that respects private property rights and precludes enforcement actions against private property owners who receive mulch or compost materials from a licensed facility that is certified to be "clean" by the supplier.</p>	
6000	Ball, J., California Biomass Energy Alliance	<p>CBEA strongly supports the inclusion of biomass conversion under the eligible procurement projects under Section 18993.1: Recovered Organic Waste Product Procurement Target. Section 18993.1 (i) attempts to clarify what feedstock qualifies under electricity generated from biomass conversion and restricts it to feedstock from a permitted solid waste facility. The majority of urban wood delivered to California's biomass facilities is sourced from permitted solid waste facilities. There are, however, a number of smaller suppliers of urban wood waste that deliver directly to biomass power plants instead of landfills, such as tree service companies or the wood that comes as part of a community drop-off program. For example, a school district delivers its used pallets to the local biomass plant. Those pallets would otherwise contribute to waste. In addition, CalRecycle already collects information on all material delivered to a biomass plant, including the location of that material as part of that plant's 498 reports. All wood that would otherwise be landfilled should be eligible feedstock under 18993.1(i). CBEA therefore suggests the following amendment.</p> <p>(i) <del>Electricity</del> <b>Electricity</b> procured from a biomass conversion facility may only count toward a jurisdiction's organic waste product procurement target if the biomass conversion facility receives feedstock from a permitted solid waste facility <b>or biomass that would otherwise have been disposed of in a solid waste landfill.</b></p>	<p>CalRecycle disagrees with the request to delete the requirement that the biomass facility must receive feedstock directly from a solid waste facility specified in Section 18993.1(f)(4)(B). The purpose of the proposed regulatory language is to be consistent with SB 1383 statute requiring organic waste reduction from landfills. This requirement allows CalRecycle to verify that biomass conversion facilities are reducing the disposal of organic waste as opposed to processing material that was never destined for the landfill.</p> <p>Verification is essential to the integrity of the requirement. Absent verification the products that are not derived from organic waste recovery could be used to count toward the procurement targets, neutering the effectiveness of this provision. The proposed alternative is vague and does not contemplate any mechanism that would allow for verification. The alternative does not provide any clarity on which entity would be responsible for determining whether or not biomass recovered at the biomass conversion facility was diverted from a landfill, or what objective standards would be used to make such a determination.</p>
6001	Ball, J., California Biomass Energy Alliance	<p>CBEA is also concerned with the conversion factor for RNG outlined in 18993.1 (g). The conversion factor of RNG currently proposed is 242 kilowatt-hours of electricity derived from renewable gas. This is inconsistent with the pipeline injection of RNG. Once in the pipeline, RNG can be converted into electricity at 0.6 Therms/kWh (based on well-established 6,000 btu/kWh heat rate of gas turbine unit). This would establish a conversion of 450 kWh of electricity from RNG per ton. The lower rate of</p>	<p>A change to the regulatory text is not necessary. CalRecycle works closely with ARB to develop conversion factors for the recovered organic waste products based on open, transparent data sources. The conversion factor for electricity derived from renewable gas is based on the biogas yield from in-vessel digestion of food and green waste from the Low Carbon Fuel Standard's Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion of Organic Waste (effective January 4, 2019). The commenter is correct in understanding that gasification of wood waste is</p>

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		242 will provide an unfair and unjustified incentive for RNG electricity above the alternative RNG uses. After reviewing the methodology shared by CalRecycle it appears it is specific to yields from anaerobic digestion or organic waste and not gasification of wood waste. CBEA requests CalRecycle conduct a stakeholder meeting among interested participants to ensure an accurate conversion rate for RNG.	not incorporated into any of the conversion factors. It is unclear what benefits a stakeholder meeting would have for the renewable gas electricity pathway as that conversion factor is based on the aforementioned public calculator, which was also subject to stakeholder review. The comment also lacks details for what constitutes an "unfair and unjustified incentive" for renewable gas electricity.
6002	Ball, J., California Biomass Energy Alliance	Finally, CBEA supports the comments from the Bioenergy Association of California as they relate to broadening of Section 18993.1(f)(3) to include additional uses of biomass conversion beyond electricity generation. Broadening the definition gives local governments more options as to which procurement opportunities work best. There are areas around the state already counting on specific technologies to meet today's organics diversion requirements. This regulation should continue to provide local jurisdictions an incentive to continue using these technologies and making investments.	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 the department to verify that these facilities are reducing the disposal of organic waste. Regarding biomass conversion facilities under PRC 40106, the definition includes "other noncombustion thermal conversion technologies". 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.
4397	Barnes, City of Bakersfield	While our comments on the attached list are limited to the current draft's red and green strikeout/underline text as directed by CalRecycle, we feel it is important to again urge CalRecycle and CARB to focus on the issue of excessive fuel consumption. This critical issue was part of a past legislative decision to grant AB 939 related waivers for "rural" areas. Collection in those areas obviously uses lots of extra fuel for the extra miles driven between collection points. Likewise, excessive fuel consumption is no doubt a large factor in the "altitude" waivers in the current regulatory draft. Remarkably, excessive fuel consumption can also occur in urban waste collection settings. This may be somewhat counterintuitive, but it does occur. When certain urban collection points require service many times per week and others require fewer, the collection trucks will drive many extra urban miles to get to only a few highfrequency locations on certain days of the week. Lacking provisions to limit excess fuel consumption, the proposed regulations may 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.	Comment noted. Commenter is not requesting a change. CalRecycle has considered reducing fuel consumption in adopting these regulations. One factor for CalRecycle rejecting the alternative to exclude exemptions and waivers from the regulations was because of costs due a concern of increased fuel consumption due to collection vehicles having to travel further distances in order to provide services in more remote and lower populated areas. By doing so, approximately 5% of organic waste was eliminated from collection requirements and potentially results in disposal. The commenter's suggestion to also allow exemption for excessive fuel in urban collection areas would not allow CalRecycle to meet the SB 1383 mandate of 75% reduction in organic disposal by 2025
4398	Barnes, City of Bakersfield	Section 18982(a)(14.5) - The definition of "Designated Source Separated Organic Waste Facility" needs to include a facility that accepts 550 from uncontainerized collection operations, as well as the containerized ones in the associated sections.	Comment noted, nothing in the regulatory text precludes a designated source separated organic waste collection facility from receiving waste collected from uncontainerized collection operations.
4399	Barnes, City of Bakersfield	Section 18982(a)(14.5)(B)- Meeting the 10 percent criteria in this subsection is attainable, but the sampling requirements will be cost prohibitive ( <b>see comments on section 17867(a)(16)</b> ). Compost facilities often remove different nonorganic materials at different points within the operation. Sampling "the pile" "sent for disposal" is not so simple, because there are several piles, and they may move out on different days. Repeating the sampling protocol for several disposal piles that are on different schedules would be too costly and impractical. Some piles might miss	Comment noted. CalRecycle previously reduced the sampling frequency from daily to 10 days per quarter to address concerns relating to cost. In response to this comment CalRecycle added language stating that an EA may approve alternative measurement protocols including less frequent measurements with CalRecycle concurrence. This would allow a facility to use a more cost-effective alternative that is as effective as the standard in the regulations.

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		<p>the 10-day sampling windows. It would also be wasted effort because many of the disposal piles contain very little organic material just by the nature of each part of the operation (consider magnets and air lifts for film plastic, for example). And, combining all the piles prior to sampling would be costly and ineffective at getting a true random sample. Therefore, an alternative approach is needed.</p> <p>A simple and effective way to measure the effectiveness of a compost facility is to compare its total disposal tonnage to the incoming feedstock tonnage. Compost facilities have a financial incentive to avoid disposal. Reflecting on 20 years of experience in composting commercial food waste at the City of Bakersfield facility, a 10 percent disposal "limit" would be appropriate for a major facility handling food waste that is collected with packaging and in plastic bags. A lower "limit" may be appropriate for a facility that does not accept plastic bags. Another section of our facility that does not allow plastic has a 2 percent residual rate. Please add a subsection (C) alternative to qualify compost facilities as "designated" when their disposal/intake ratios are below these limits.</p>	
4400	Barnes, City of Bakersfield	Section 18982(a)(39.5)- Please define the term "diversion location" more clearly, perhaps as "generator location", since the lifecycle analysis of emissions would be affected by all associated transportation, including collection route distances.	A definition for "Recovery location" has been added in Section 18982, subdivision (a)(60.5).
4401	Barnes, City of Bakersfield	Section 18982(a)(41) - Please define the term "breakdown", and define the extent of the "breakdown" required for paper to be considered compostable. Clarity is needed to know whether or not to divert and compost a vast assortment of paper-based items that may have an unnoticeably thin plastic coating that is not apparent in the composting process, and is not detectable or reportable in testing required by section 17868.3.1. Common items of this type include paper cups, paper plates, food packaging, and fast food wrappers.	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.
4402	Barnes, City of Bakersfield	Section 18982(a)(75)-The definition of "uncontainerized green waste and yard waste collection service" needs to include two other important items: a. Landscape service companies that remove yard trimmings from their clients' properties as part of their core service (not just from in front of the building). b. Transport to a "Designated Source Separated Organics Waste Facility" as well.	If a landscaper is removing yard trimmings, then they would not be 'uncontainerized.' Regarding the request to add the term 'designated,' that term is used only in specified circumstances and is not needed in this definition.
4403	Barnes, City of Bakersfield	Section 18983.1(b) and its subsections -The language throughout this section needs to distinguish between wastes and products made from wastes. The intent seems to be to limit the amount of organic waste placed in landfills AS WASTE. However, organic waste that has	The comment does not require a change in text. Regardless of how or what it is labeled as, waste or product, organics disposed of in a landfill will generate greenhouse gases and not accomplish the goals of SLCP reduction. Section 18983.1(b)(5)(A)-(C) establishes the conditions under which organic material may be used at a landfill and not count as disposal.



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		been sent to one of the facilities or operations listed AND MADE INTO A PRODUCT to be used for a purpose at a landfill should not be considered as waste in this section.	
4404	Barnes, City of Bakersfield	Section 18983.1(b)(5)- Products made from organic wastes may be used for other environmental remediation purposes than those currently listed. <b>Please add "or other environmental remediation or management techniques".</b>	This comment does not require a change to text. Adding "or other environmental remediation or management techniques" may allow for uses/techniques that do not mitigate greenhouse gas emissions. This would negate the purpose of SB1383. If the commenter has a new technique or technology then there is an opportunity to qualify it under Section 18983.2.
4405	Barnes, City of Bakersfield	Section 18983.1(b)(5)(C) - Products made from organic wastes may need to be used in layers greater than 12 inches in depth. Bio-filters are one example. <b>Please add "unless necessary to accomplish its purpose for environmental control".</b>	The purpose of section 18983.1(b)(5) is to specify that organic waste used as a soil amendment for erosion control, revegetation, slope stabilization or landscaping at a landfill is considered a recovery activity for the purpose of this regulation, provided that certain conditions mitigating greenhouse gas emissions relative to the material's final deposition are met. The purpose of subdivision (b)(5)(C) is to clarify that application of the material may only be considered a reduction in landfill if the application of the material never exceeds a depth of 12 inches. Section 18983.1(b) specifies the facilities that can receive and process the material and be considered a reduction in landfill disposal. Section 18983.2 may be used to specify recovery processes that reduce disposal of organic waste and achieve greenhouse gas emission reductions in comparison to landfilling the same waste, but that are not listed in section 18983.1.
4406	Barnes, City of Bakersfield	Section 18984.5(b)(1)(B) - Some generators' doors are not readily accessible due to gated outdoor areas. <b>Please add "or gate".</b>	Thank you for the comment. CalRecycle has revised Section 18984.5(b)(1)(B). The change is necessary to add 'or gate' as some generators' doors are not readily accessible due to gated outdoor areas.
4407	Barnes, City of Bakersfield	Section 18984.5(e)(1) - Some jurisdictions' green container stream is taken directly to compost facilities, without first going to a solid waste facility for processing. Please clarify to include compost facilities in this subsection.	Nothing in the regulatory text prohibits a jurisdiction from taking source separated organic waste collected in a green container to a compost facility.
4408	Barnes, City of Bakersfield	Section 18984.5(e)(2) The requirement for an average weight of organic waste present in gray container material of less than 25 percent is in conflict with the language of SB 1383, in section 42652.5(a)(3), which states that the regulations shall not establish a numeric organic waste disposal limit for individual landfills. <b>This requirement should be removed.</b> As pointed out in comments under sections 17409.5.7 and 20901, wastes from more than one jurisdiction are often collected by haulers in the same truckload, due to geography or other factors. Since jurisdictions may have varying degrees of success in their programs, waste evaluations from multi-jurisdictional truckloads may negatively impact an otherwise successful jurisdiction. Therefore, some jurisdictions may need to dispatch special sampling routes to collect from randomly chosen generators within their jurisdiction, to avoid being mixed up with other jurisdictions' wastes at solid waste facilities that otherwise normally serve them. Please coordinate changes in this subsection to reflect the "pure jurisdictional" sample route option as recommended.	Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024. The definition of "designated source separated organic waste recycling facility" in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards.
4409	Barnes, City of Bakersfield	Section 18988.3(b)(3)(C)- In the solid waste industry, truck scales at most facilities are built to handle heavy trucks, and are inherently not effective at weighing smaller	CalRecycle has revised Section 18988.3(b)(3)(C) in response to this comment to added "or employs scales incapable of weighing the self-haulers vehicle. The change is necessary because in

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		<p>vehicles such as pickup trucks and autos with trailers. Because of this tendency, and because smaller vehicles carry payloads within a narrow range of weights compared to large trucks, most solid waste and recycling facilities utilize average weights or conversion factors for pickups and autos with trailers. It is quite common for facilities to weigh only larger trucks and keep traffic counts to quantify the materials received from smaller vehicles. Therefore, this subsection should perhaps say, "does not use scales for the type of generator vehicle" rather than "does not have scales on-site". Although this section does not have the current red or green indicators for draft changes, this is triggered by the changes made in other sections related to self-haulers.</p>	<p>the solid waste industry, truck scales at most facilities are built to handle heavy trucks, and are inherently not effective at weighing smaller vehicles such as pickup trucks and autos with trailers. Because of this tendency, and because smaller vehicles carry payloads within a narrow range of weights compared to large trucks, most solid waste and recycling facilities utilize average weights or conversion factors for pickups and autos with trailers. It is quite common for facilities to weigh only larger trucks and keep traffic counts to quantify the materials received from smaller vehicles.</p>
4410	Barnes, City of Bakersfield	<p>Section 18998.1(a)(1)and(4) - As written, these subsections require certain levels of service that may not be physically possible due to space constraint, lack of organic waste volume, quarantined materials, etc. Please include a reference to the appropriate related sections which allow exemptions for these situations.</p>	<p>A jurisdiction implementing a performance-based source separated organic waste collection service may exempt 10 percent of commercial and 10 percent of residential generators from the requirement to have a source separated organic waste collection service. A jurisdiction implementing a performance-based source separated organic waste collection service is not required to issue waivers in order to exempt these generators.</p>
4411	Barnes, City of Bakersfield	<p>Section 18998.1(a)(3)  The 25 percent limit for organic waste in the gray container collection stream in a performance based collection system seems to reflect the state goal of 75 percent reduction. However, it is not workable for these regulations for the following reasons:  - It would also be inconsistent with the language of the original legislation, which avoids using a numerical limit at landfills.  - Such a numerical limit would not be equitable. It will create an unfair burden compared to other collection systems under the current draft, which do not have them.  - A jurisdiction may be prevented from using an otherwise good and effective Performance Based System if it has generators that are space exempt and the organic waste in the gray container stream from those generators would raise the average above the limit.  - Using a numerical limit begs the question of whether "credits" could be earned by those jurisdictions that score below the 25 percent limit. Please provide a credit system if numerical limits are to be used in these regulations.  <b>Proposed Solution</b> - An equitable requirement for a performance-based system would be for the jurisdiction(s), collector(s) and the composting facility to work together to manage contaminants such that the compost facility can produce compost meeting CalRecycle's existing limits for physical contaminants. Such an approach would not be inconsistent with the legislative language.</p>	<p>Comment noted. This comment assumes that the recovery efficiency standards established in Article 17 are equivalent to an overall jurisdiction diversion target. They are not, as such a requirement is precluded by statute.</p>
4412	Barnes, City of Bakersfield	<p>Section 17402(a)(18.6) - Source separated organic waste should include that collected by noncontainerized systems as well as the containerized systems listed.</p>	<p>CalRecycle has revised this section in response to comments. The change included the addition of organic waste collected by noncontainerized systems under the definition of "source separated organic waste collection stream." The change is necessary to allow the collection of organic waste at the point of generation to be included in the definition of "source separated organic waste collection stream" because it is accomplishing the same results as collecting it in a container.</p>

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4413	Barnes, City of Bakersfield	<p>Section 17409.5.5</p> <p>This section needs to consider that some organic wastes removed from the SSO stream and sent for disposal may be of types that, while organic, are not acceptable for the given program. Therefore, language is needed to prevent non-recyclable organics from counting against the facility.</p> <p>The frequency of measurements at 10 days per reporting period (quarterly) amounts to 40 working days per year, which is an economic burden not warranted by the results. Please reduce the measurements to three consecutive days per reporting period. This would allow most facilities to work in the extra tasks without having to hire additional staff. Note that this would also apply to several other similar subsections in the draft regulations.</p>	<p>A change to the regulatory text is not necessary. Any organic waste sent to a recovery facility that cannot be effectively recovered or is not permitted to receive, will be considered incompatible material. Although some organic materials are not ideal for certain recovery activities, there may be other methods for that material to be recovered (described in Section 18983.1).</p> <p>Regarding sampling frequency:</p> <p>A change to the regulatory text is not necessary. The sampling frequency of 10 consecutive days per quarter 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 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>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>
4414	Barnes, City of Bakersfield	<p>Section 17409.5.7 -Wastes from more than one jurisdiction are often collected by haulers in the same truckload, due to geography or other factors. Since jurisdictions may have varying degrees of success in their programs, waste evaluations from multi-jurisdictional truckloads may negatively impact an otherwise successful jurisdiction. Also, jurisdictions whose wastes are co-collected with other jurisdictions may be of a different tonnage level, and thus fall under a different reporting interval. To avoid the potential for jurisdictional inequities that may occur, please add provisions to allow pure jurisdictional waste evaluations.</p>	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>

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		Proposed Solution - Allow the option for jurisdictions to perform the Gray Container Waste Evaluations in lieu of the facility operator, by using specially dispatched collection routes assigned a number of random pickup locations within a single jurisdiction to achieve the required sample size.	
4415	Barnes, City of Bakersfield	Section 17409.5.7.2(a)(2)-The term "any remnant organic material" is overly broad for the intended purpose of measuring the effectiveness of organic waste diversion programs. In various other parts of the regulations, different types of organic materials are differentiated because of their recyclability. In addition, some items found in the waste stream are comprised of both organic and nonorganic materials. The regulations should be clear to allow those items to be counted as waste and not as organics. Please provide the same basis for differentiation here. Otherwise, taken literally, this section could misreport some otherwise successful programs as not being effective.	Comment noted. Remnant organic material is defined in Section 17402(a)(23.5) and is the organic waste collected in the gray container, as part of a three-container organic waste collection system. The purpose of the gray container waste evaluations 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.
4416	Barnes, City of Bakersfield	Section 17409.5.9(b) - In the solid waste industry, truck scales at most facilities are built to handle heavy trucks, and are inherently not effective at weighing smaller vehicles such as pickup trucks and autos with trailers. Because of this tendency, and because smaller vehicles carry payloads within a narrow range of weights compared to large trucks, most solid waste and recycling facilities utilize average weights or conversion factors for pickups and autos with trailers. It is quite common for facilities to weigh only larger trucks and keep traffic counts to quantify the materials received from smaller vehicles. This subsection should allow for that.	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) and with the approvals of alternatives pursuant to this section.
4417	Barnes, City of Bakersfield	Section 17414.2(b)(1)and (2)- Creating and maintaining records indicating the physical location for every property receiving compostable material for land application and the associated weight is not practical, and would be a burdensome administrative function that has little potential value toward the intended goal of these regulations. This concept was discussed by Cal Recycle and some stakeholders a few years prior, when Title 14 Regulations were being revised to combat the problem of "dirty" organic materials being land applied. The issue was resolved by new Title 14 regulations, which now require operators to adhere to physical contamination limits for such material. <b>This section is unnecessary and should be removed.</b>	CalRecycle has revised Section 17414.2(b) in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of compostable material sent off site to any destination other than to permitted solid waste facility or operations, the percentage of incompatible material, and the total weight of the compostable material sent off site that day. The purpose is to specify that the material sent off to a destination that is not a permitted solid waste facility has less than 20% incompatible material on and after 2022 and 10% on and after 2024. This is necessary to ensure that the material was processed to a level that a receiving facility can recover the material.
4418	Barnes, City of Bakersfield	Section 17867(a)(16)(A)(1)(i) - The frequency of measurements at 10 days per reporting period (quarterly) amounts to 40 working days per year, which is an economic burden not warranted by the results. Please reduce the measurements to three consecutive days per reporting period. This would allow most facilities to work in the extra tasks without having to hire additional staff.	A change to the regulatory text is not necessary. The sampling frequency of 10 consecutive days per quarter 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

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			<p>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 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>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>
4419	Barnes, City of Bakersfield	<p>Section 17867(a)(16)(B) - Work is needed in this section (as well as other similar sections on sampling requirements) to reflect operational realities. Points to address are:</p> <p>Multiple Piles - To effectively remove contaminants from the SSO stream, compost facilities often handle materials through a series of steps using a combination of workstations or machines. Most steps remove certain types of the nonorganic materials for disposal. Since these materials tend to be in separate piles at various locations at the facility, taking a composite sample from "the pile" in the draft sampling protocols is not so simple. Flexibility is needed to take a facility-wide composite sample for this purpose. For example, the welldeveloped City of Bakersfield facility has six discharge points for different types of residuals; thus, it would spend six times the cost and labor than a single discharge point facility handling the same kind of SSO stream. Using the draft sampling protocols over and over throughout the facility would be cost prohibitive. The effectiveness of compost facilities should not be determined by this protocol.</p>	<p>A change to the regulatory text is not necessary. Section 17867(a)(16)(E) 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>
4420	Barnes, City of Bakersfield	<p>Section 17867(a)(16)(B)</p> <p>Weight of Moisture - Organic materials inherently absorb water during the composting process. This makes saturated organic material weigh up to several times more than if dry. Such variations in weight could penalize an otherwise effective, well performing compost facility. Delaying disposal to allow organics to dry out would give inconsistent results. However, thoroughly drying out organics</p>	<p>A change to the regulatory text is not necessary. 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 of material that will be sent to disposal.” 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>

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		found in sampling would be too cumbersome, laborious, and time consuming. The effectiveness of compost facilities should not be determined by this protocol.	In addition, Section 17867(16)(E) 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.
4421	Barnes, City of Bakersfield	Section 17867(a)(16)(B) Random Outliers - Since most material disposed from compost facilities is lightweight plastic, and organic materials are heavy with moisture, the draft protocol is vulnerable to skewed results from random pieces of organic material that do not represent the norm in the operation. Random pieces of stone or Styrofoam may also skew the ratios. The effectiveness of compost facilities should not be determined by this protocol.	A change to the regulatory text is not necessary. 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 of material that will be sent to disposal." 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. In addition, Section 17867(16)(E) 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.
4422	Barnes, City of Bakersfield	Section 17867(a)(16)(B) Biodegradable Goods and Bags - Much research has been done finding that some "biodegradable" products do not fully break down in mainline compost facilities. The residuals from these products could skew the ratios, making the draft protocol ineffective or unfair for some facilities.	A change to the regulatory text is not necessary. 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 of material that will be sent to disposal." 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. In addition, Section 17867(16)(E) 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.
4423	Barnes, City of Bakersfield	Section 17869(e)(5) - Creating and maintaining records indicating the physical location for every property receiving compostable material for land application is not practical, and would be a burdensome administrative function that has little potential value toward the intended goal of these regulations. This concept was discussed by CalRecycle and some stakeholders a few years prior, when Title 14 Regulations were being revised to combat the problem of "dirty" organic materials being land applied. The issue was resolved by new Title 14 regulations, which now require operators to adhere to physical contamination limits for such material. <b>This section is unnecessary and should be removed.</b>	CalRecycle has revised Section 17896 in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of the total weight of compostable material sent off site to any destination other than to permitted solid waste facility or operations. This was necessary to lessen the burden on the operators from collecting information that may not be readily available to them. This change requires operators to include information they should already have available. This is necessary to ensure that the material sent off to a destination that is not a permitted solid waste facility was processed to a level that meet the physical contaminates limits standards.
4424	Barnes, City of Bakersfield	THIS COMMENT NUMBER IS NOT BEING USED. INITIALLY IT WAS USED BUT IT WAS DISCOVERED THAT THE COMMENT 4424 WAS A DUPLICATE OF COMMENT 4425.	

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4425	Barnes, City of Bakersfield	<p>Section 20901- Wastes from more than one jurisdiction are sometimes collected by haulers in the same truckload, due to geography or other factors. Since jurisdictions may have varying degrees of success in their programs, waste evaluations from multi-jurisdictional truckloads may negatively impact an otherwise successful jurisdiction. To avoid the potential for jurisdictional inequities that may occur, please add provisions to allow pure jurisdictional waste evaluations. A simple approach is to use specially dispatched collection routes assigned a number of random pickup locations within a single jurisdiction to achieve the required sample size. For efficiency, these "sample" loads could be measured at a facility other than the disposal facility that normally accepts the gray container stream. This approach may provide additional beneficial information to a jurisdiction as a byproduct of the effort, including the ability to quickly and efficiently focus corrective efforts on those pickup locations that were randomly selected for the sample route.</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
4426	Barnes, City of Bakersfield	<p>Articles 2 and 17 Lacking Full Scope The use of performance-based systems to achieve the GHG reduction goals of SB 1383 should not be limited to the technology evaluations in Article 2 or the collection services in Article 17. Other types of environmental management regulations allow engineered alternatives if they achieve the goals. While Article 2 addresses this issue for technologies that constitute a reduction in landfill disposal, the current draft does not contain a section for alternative approaches to the comprehensive reduction of GHG emissions. It would be appropriate to do so.</p> <p>Furthermore, a trade-off mechanism is necessary to help guide financial and political decisions about programs, for situations in which more GHG reductions may be obtained in exchange for less landfill diversion or vice versa. Although the original legislation had dual goals of GHG reduction and landfill diversion, some trade-offs may eventually be necessary to address social, economic, and physical realities. In the end, GHG reduction may need to take precedence over landfill space. Otherwise, the landfills may be underwater anyway. Please provide for the use of broad based and comprehensive alternatives.</p> <p>One example of an alternative approach uses a trade-off to achieve far greater GHG reduction than the approaches in the draft regulations. The approach would be to arrest GHG emissions from ALL OF THE WASTE, not just the portion of organics that would be diverted by the various methods in the draft. In lieu of multi-million dollar collection/diversion systems prone to failure from human reluctance, biofiltration on landfill surfaces could capture and treat nearly 100% of the fugitive methane emissions. From a comprehensive perspective, low-grade compost made from contaminated urban organic feedstock would find a large and nearby market if used for biofiltration on landfills. This approach could help resolve many other issues identified by Cal Recycle and CARB's previous studies, including siting, transportation, procurement, feedstock contamination, and criteria air pollutants.</p>	<p>The comment does not require a change in text. Regardless of how or what it is labeled as, waste or product, organics disposed of in a landfill will generate greenhouse gases and not accomplish the goals of SLCP reduction. Section 18983.1(b)(5)(A)-(C) establishes the conditions under which organic material may be used at a landfill and not count as disposal. Section 18983.1(a)(1) specifies that depositing organic waste into a landfill is considered a landfill disposal activity for the purposes of this regulation. The final deposition of waste in a landfill is expressly included as disposal in statute. 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:</p> <p><b>SECTION 18983.1 LANDFILL DISPOSAL AND RECOVERY</b> 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.</p> <p><b>AND</b> 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>

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		While some of the low-grade compost will permanently reside in the landfill after biofilter layers are covered, the choice compost material can be culled out for higher uses. This type of trade-off could achieve much greater GHG reduction than the draft approach, with only modest loss of landfill diversion.	
4427	Barnes, City of Bakersfield	<p>Caution for Salt Content - several similar sections such as 18984.1(a)(5)- Groundwater salinity is a major concern for California, as expressed by Regional Water Boards. Unfortunately, some organics currently landfilled would add to the salinity of agricultural land if composted. One case is already occurring in Kern County, where the County's landfill system began sending manures and stable bedding to be composted in early 2018. So far, no farmers will buy the manure-based compost because they feel it is too salty.</p> <p>One of the differences between SLCP goals under SB 1383 and Mandatory Commercial Organics Recycling under AB 1826 is that the latter did not include manure in the definition of organic waste. This should be considered in light of the salinity issue. Salty manures and even salty or briny food wastes should be left out of the composting requirements. This will help prevent compost producers from "getting a black eye" from salty batches of compost that can actually kill their customers' crops. Please provide for exclusions of feedstock that would increase salinity in compost.</p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4341	Baroldi, L., Synagro	It is our understanding that the intent of the Proposed Rule is to preempt local control of biosolids land application, with the exclusive enforcement of the federal regulations (40 CFR part 503), the State Water Boards' Biosolids General Order (SWRCB GO), and/or individual Waste Discharge Requirements (WDRs) being the full extent of regulatory oversight for biosolids land application in California. This understanding appears to be supported by the following language found in Article 2 and Article of the Proposed Rule: (See letter for citation)	<p>The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p> <p>This section of the regulatory text was updated to reflect stakeholder feedback to allow for reasonable local regulation of organic waste recovery activities such as land application of biosolids. For example, local jurisdictions may have legitimate public health and safety reasons to place time and manner restrictions on the land application of biosolids and this language allows for that. The intent of CalRecycle was to place a nexus between any local restriction and public health, safety, and environmental concerns such that the local requirement is closely tailored to deal with a particular public health, safety or environmental issue and doesn't constitute an overbroad, de facto prohibition. It is not CalRecycle's intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards.</p>
4342	Baroldi, L., Synagro	It is our understanding that the Proposed Rule has incorporated by reference 40 CFR part 503 and the SWRCB GO as the preemptive regulatory requirement for biosolids land application (Article 2 which references 40 CFR part 503 and §17582 of Title 14 (which references the SWRCB GO). The Proposed Rule states that a jurisdiction cannot prohibit lawful processing and recovery activities identified in Article 2. Land application of Class B biosolids in compliance with the requirements found in 40 CFR Part 503 and the SWRCB GO is a recovery activity under Article 2, therefore it appears that it cannot be prohibited by a local jurisdiction (e.g., county ordinance). The question that needs clarification is whether a local jurisdiction can further	<p>The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p> <p>This section of the regulatory text was previously updated to reflect stakeholder feedback to allow for reasonable local regulation of organic waste recovery activities such as land application of biosolids. For example, local jurisdictions may have legitimate public health and safety reasons to place time and manner restrictions on the land application of biosolids and this language allows</p>



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		<p>“regulate” (not “prohibit”) biosolids land application. This needs clarification. In your January 2019 Initial Statement of Reasons, CalRecycle correctly provided a discussion as to why such preemption is required: (See letter for citation)</p>	<p>for that. The intent of CalRecycle was to place a nexus between any local restriction and public health, safety, and environmental concerns such that the local requirement is closely tailored to deal with a particular public health, safety or environmental issue and doesn’t constitute an overbroad, de facto prohibition.</p>
4343	Baroldi, L., Synagro	<p>Please note that local ordinances may not expressly prohibit the land application of biosolids but may include numerous regulatory requirements to constitute a defacto ban (e.g., Tulare County). Such ordinances conflict with the intent of SB 1383 and need to be immediately rescinded by CalRecycle.</p>	<p>The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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:  (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.  This section of the regulatory text was previously updated to reflect stakeholder feedback to allow for reasonable local regulation of organic waste recovery activities such as land application of biosolids. For example, local jurisdictions may have legitimate public health and safety reasons to place time and manner restrictions on the land application of biosolids and this language allows for that. The intent of CalRecycle was to place a nexus between any local restriction and public health, safety, and environmental concerns such that the local requirement is closely tailored to deal with a particular public health, safety or environmental issue and doesn’t constitute an overbroad, de facto prohibition.</p>
4344	Baroldi, L., Synagro	<p>Existing state and federal regulations thoroughly and adequately address health and safety concerns. The USEPA has committed significant resources to execute risk assessments, technical support documents, and comprehensive regulations which are reviewed every two years under the Clean Water Act to ensure the land application of biosolids protects public health and the environment. The State Water Quality Control Board has also expended tremendous resources in the development of a Programmatic Environmental Impact Report and a statewide General Order to ensure the safety of the land application of biosolids. The SWRCB GO establishes a regulatory system to manage biosolids in a manner that is protective of public health and the environment to the extent of present scientific knowledge. The SWRCB found that the “beneficial use of biosolids through land application under this General Order is environmentally sound and preferable to non-beneficial disposal.”</p>	<p>It is not CalRecycle’s intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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:  (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p>
4345	Baroldi, L., Synagro	<p>By not including express prohibitions on local control, counties will continue to enforce politically based “<b>unreasonable</b>” biosolids land application ordinances that are de facto bans (if not express bans) under the thinly veiled guise of protecting public health and welfare. Such logically leads to increased organic waste disposal, which is in direct conflict with the goals of the of SB 1383 and existing State law. Clear preemptive language to prohibit local control in the Proposed Rule is “<b>necessary to clarify the limits of local authority and expressly prohibit these types of restrictions as they are in direct conflict with CIWMA [and SB 1383] and hinder the state’s ability to achieve the state’s organic waste reduction targets.</b>”</p>	<p>It is not CalRecycle’s intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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:  (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p>
4346	Baroldi, L., Synagro	<p>The following excerpts from the Tulare County biosolids ordinance is just one example of a county ordinance that on its face appears to allow for land application but includes numerous “<b>unreasonable</b>” politically driven and unreasonable</p>	<p>It is not CalRecycle’s intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b)(1) now reads: "(b) A jurisdiction shall</p>

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		<p>restrictions that create an effective ban on biosolids land application, including Class A/EQ compost. Please note that <b>only Class A EQ</b> biosolids are allegedly “allowed” to be land applied in Tulare County under numerous prohibitive conditions, including, but not limited to the selected following conditions:</p> <ul style="list-style-type: none"> <li>• Methods of beneficial use shall be limited to incorporation of biosolids into the soil so that the biosolids will either condition the soil or fertilize crops or vegetation grown in the soil.</li> <li>• Biosolids shall be land-spread within twenty-four (24) hours of arrival at the approved site</li> <li>• Unless otherwise directed by the Agricultural Commissioner, each biosolids load shall be sampled at the staging area prior to land spreading by the applicator, with volume-integrated samples which shall be analyzed for numerous land application parameters....</li> <li>• Soil samples (required) and vegetation samples (at the discretion of the Agricultural Commissioner)</li> <li>• Biosolids Land Spreading Site Plan required</li> <li>• Approved Nutrient Management Plan required</li> <li>• Need to obtain a Biosolids Management Permit issued by the Agricultural Commissioner for the proposed site</li> <li>• The applicant shall obtain, and submit to the Agricultural Commissioner, a written statement showing that the grower and landowner have been informed of potential problems associated with biosolids and consent to land spreading of biosolids on the site.</li> <li>• Notice of the application and the comment period shall be given to all owners of properties that are within 2,640 feet</li> <li>• Application, monitoring, and inspection fees shall be imposed in an amount necessary to fully recover the actual costs incurred by the County in administering this Ordinance</li> <li>• All costs of laboratory analysis of biosolids, soil, water, and vegetation samples requested by the Agricultural Commissioner and this Ordinance shall be paid by the applicant(s).</li> </ul> <p>Although Class A/EQ biosolids compost can be bought at Home Depot in Tulare County, this safe material will never be land applied on agricultural sites in Tulare County under these onerous provisions. Without enforcement by CalRecycle, not only total land application bans like that in Stanislaus and San Joaquin counties, but defacto ban regulations like that enforced by Tulare County will persist thus frustrating the State’s needs for biosolids recycling options. How does CalRecycle plan on enforcing its regulations on such counties?</p>	<p>not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that do any of the following:  (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter."</p>
4347	Baroldi, L., Synagro	<p>Also, in your January 2019 Initial Statement of Reasons, CalRecycle states the following in Article 9, Subdivision (c)(3):</p>	<p>Section 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 section 18990.1 (b) are to ensure that jurisdictions do not impose restrictions</p>

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		<p>The purpose of this section is to clarify that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with Section 40053 of the PRC. This section is necessary in order to provide clarity to stakeholders who had raised concerns that this section could potentially prohibit a jurisdiction or facility from adopting <b>reasonable operational zoning limits</b>. [emphasis added]</p> <p>This language seems inconsistent with the language added to s. 18990.1(a &amp; b) which restricts local ordinances such that they may not impede organics recycling. Sub (c)(3) seems to supersede that restriction. Deletion of this language is requested to ensure an open market across California for organics recycling. The term “reasonable operational zoning limits” leaves lots of room for abuse by local jurisdictions with the trier of fact typically providing a lot of discretion for local land use and zoning abuses that are inconsistent with SB 1383.</p>	<p>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. Meanwhile, section 18990.1 (c) clarifies that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with section 40053 of the Public Resources Code. A revision to the regulatory text is not necessary.</p>
4329	Bartheld, American Forest & Paper Association	<p>On behalf of the American Forest &amp; Paper Association (AF&amp;PA) we are writing regarding the CalRecycle document, Proposed Regulation Text Second Formal Draft, in reference to the following proposed change on page 36:</p> <p>Article 5. Generators of Organic Waste Section 18986.1. Non-Local Entities Requirements (c) Non-local entities shall prohibit their employees from placing organic waste in a container not designated to receive organic waste. <del>(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.</del></p> <p>AF&amp;PA supports removal of the language that restricts plastic coated paper from the blue container in this and all other sections of the proposed regulation text, as we believe it was your intent to allow these materials to be accepted. Plastic coated paper is recyclable in many paper mills that use recovered fiber and removing the restrictive language will help California divert more recyclable paper from landfills.</p>	<p>Thank you for the comment. CalRecycle clarified in the regulations that plastic coated paper could be collected for diversion.</p>
1021	Bell, Kevin, WPWMA	<p>17409.5.2 The WPWMA previously suggested semi-annual sampling and maintains that this should provide sufficient information for CalRecycle.</p> <p>Quarterly sampling of 10 consecutive operating days is still onerous and extremely costly. Question the need for two weeks of sampling per quarter. CalRecycle should justify the need for 10 consecutive days of sampling. CalRecycle has previously required measurement and testing protocols without vetting, as with recent compost contaminant regulations. If CalRecycle maintains that quarterly sampling is necessary, one day of sampling per quarter should be sufficient.</p>	<p>A change to the regulatory text is not necessary. The sampling frequency of 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”</p>

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			<p>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 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>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>
1022	Bell, Kevin, WPWMA	<p>17409.5.4 Appears that the purpose of this section is to measure the non-organic fraction of the source separated organic waste stream. Should measure the amount of contamination in this stream, not the amount of each organic material type in the stream.</p> <p>The purpose of this section is unclear. CalRecycle should be more interested in what does not belong in this waste stream rather than the composition of material that does belong. Requirement should be to remove contaminants and assume the remainder is organic waste.</p>	<p>A change to the regulatory text is not necessary. The purpose of this measurement is to determine the amount of “actual” organic waste recovered from the source-separated organic waste collection stream that is sent for further processing/recovery. If the facility is sending different organic waste types (green material, food material, paper, etc.) for further processing/recovery to different recovery activities (Composting, Digesters, etc.), then it is necessary to measure each waste type separately to determine how much “actual” organic waste is being recovered. These measurements are necessary to ensure that the goals of SB 1383 (50% recovery by 2020 and 75% by 2025) are being met.</p>
1023	Bell, Kevin, WPWMA	<p>17409.5.6 Requiring source separated organics waste processing be kept separate from other solid waste streams is not practical, especially in facilities that may also combine organic streams for further onsite processing.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations. 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>
1024	Bell, Kevin, WPWMA	<p>17409.5.7 Requirement jumps from 3 to 5 evaluations, increasing the burden on facilities. Should be waste stream-specific rather than jurisdiction-specific and/or should only be required if a jurisdiction is not meeting the requirements or if material is not being delivered to a high diversion MRF.</p> <p>Appears to require processing facilities to audit jurisdictions – this burden should be placed on the jurisdiction if it is even necessary at all.</p>	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>
1025	Bell, Kevin, WPWMA	<p>17409.5.10.5 Clarify the 10% requirements, so not mistaken that facility as a whole has to divert 90%.</p>	<p>CalRecycle has revised the proposed regulations text dated January 18 during the 45-day comments in response to comments 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. 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</p>

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			be required to perform the measurement protocol on the material sent to the co-located activity, only the material sent off-site.
1026	Bell, Kevin, WPWMA	Clarify use of the term <b>remnant organic material</b> .	Comment noted. Remnant organic material is defined in Section 17402(a)(23.5) and is the organic waste collected in the gray container, as part of a three-container organic waste collection system.
1027	Bell, Kevin, WPWMA	<p>17414.2(b) <b>Delete this requirement.</b></p> <p>It is unreasonable to expect a compost facility to track the destination of compostable material sold, especially considering that material is purchased in bulk, passes through multiple hands, and the ultimate disposition of the material is not always known. Abuse of land application is enforced at solid waste facilities through existing regulation; the extent and manner that this oversight is incorporated</p>	CalRecycle has revised Section 17414.2(b) in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of compostable material sent off site to any destination other than to permitted solid waste facility or operations, the percentage of incompatible material, and the total weight of the compostable material sent off site that day. The purpose is to specify that the material sent off to a destination that is not a permitted solid waste facility has less than 20% incompatible material on and after 2022 and 10% on and after 2024. This is necessary to ensure that the material was processed to a level that a receiving facility can recover the material.
1028	Bell, Kevin, WPWMA	<p>18815.5(e) The use of a 'rolling' quarterly recovery efficiency does not adequately allow for seasonal fluctuations or changes in waste flows. Calculating a new annual average every quarter, based upon the immediately preceding quarters, could result in multiple periods out of compliance.</p> <p>Use an annual recovery efficiency and clarify the time period (e.g. calendar year, fiscal year, etc.).</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>
1029	Bell, Kevin, WPWMA Prinz, William, City of San Diego Local Enforcement Agency	18983.1 "If...the operator demonstrates that approved material recovery fines that will be used for cover material do not include organic waste, the use of material recovery fines shall not constitute disposal of organic waste."	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

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		<p>Organic fraction of MRF fines cannot feasibly be recovered. If it could be recovered, the material would not be suitable for composting if the resultant product is to be marketed for offsite use. There is ultimately no market for the organic fraction of ADC. Strongly encourage CalRecycle to continue applying diversion credits for use of MRF fines as ADC. Recommend reverting to language in previous version that continued to consider use of ADC as diversion. At a minimum, consider the following provisions:</p> <ul style="list-style-type: none"> <li>--Allow with no restrictions the use of MRF fines where only a di minimis (e.g. 10%) portion is organic waste.</li> <li>--When more than a di minimis amount of organic material is present, allow the non-organic portion to be acceptable as ADC.</li> <li>--Allow full use of MRF fines as ADC once the material has been composted or otherwise processed to the point that the organic fraction is depleted of methane-producing characteristics prior to use as ADC.</li> <li>-- <b>Clarify the definition of “organic waste” in section 18982 (a)(46) to be that “Organic waste does not include organic material that has been composted or otherwise processed to reduce its methane-producing potential.”</b></li> </ul>	<p>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> <p>Comment noted, finished compost is not organic waste. The term “otherwise processed” is vague, it is unclear what the commenter considers “otherwise processed” so CalRecycle cannot make a regulatory change.</p>
1030	Bell, Kevin, WPWMA	<p>18984.2(a)(1)(B) “The gray container allows for intentional comingling of all collected wastes, including organic waste that is not designated for collection in the green container, provided that the contents of the gray container are transported to a facility that meets or exceeds the organic waste content recovery requirements specified in Section 18984.3”</p> <p>Difficult to be a high diversion facility when the majority of organic material is collected in the green bin.</p> <p>A high-performing system diverts organics with both source separated collection and recovery of additional organic material from gray container waste using post-collection sorting. System performance must be measured at the system level.</p> <p>Combining source-separation with post-collection recovery of organics is likely the only way to achieve 75% reduction of organics disposal.</p>	<p>A change to the regulatory text is not necessary. Source-Separated organic (SSO) waste, does not have to meet a recovery efficiency of 50/75%, only organic waste collected from the mixed-waste organic (MO) collection stream does. Organic waste from an SSO and MO collection stream can be combined and sent for recovery, but only after sampling measurements have been taken. Until then, these waste streams must be kept separate in order to be compliant with section 17409.5.6.</p>
1031	Bell, Kevin, WPWMA	<p>18984.2(a)(2)(c)(2) Clarify how hazardous wood waste is to be disposed OR allow for provision similar to Section 18984.2(a)(1)(C) where hazardous wood waste may be placed in a gray container if the material is transported to a facility that has provided written notification to the jurisdiction that the facility can process and recover the material.</p> <p>The WPWMA has the ability to recover and dispose of TWW. The WRSL and other composite-lined solid waste landfills with Waste Discharge Requirements specifically allowing TWW to be commingled with solid waste are not required to segregate TWW from solid waste. These approved landfills allow TWW to be accepted as solid waste and therefore should not be prohibited from placement in the gray container. The most likely problem of contamination will be if TWW is placed in the green container.</p>	<p>This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a></p> <p>CalRecycle will clarify will provide jurisdictions the guidance from DTSC.</p>

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1032	Bell, Kevin, WPWMA Kernkamp, Hans, Riverside County Department of Waste Resources	18990.1 This section prohibits a jurisdiction from adopting or enforcing an ordinance, policy, permit condition, etc. prohibiting acceptance of organic waste from outside the jurisdiction. The WPWMA strongly maintains its objection to any regulatory concept that usurps local decision-making authority and forces a jurisdiction to utilize local capacity, paid for by local ratepayers, for organic waste generated outside of that jurisdiction.	The proposed regulatory text currently allows for jurisdictions to guarantee facility capacity for organic waste generated from the jurisdiction. A change to the regulatory text is not necessary.
1033	Bell, Kevin, WPWMA Kernkamp, Hans, Riverside County Department of Waste Resources	20901 - Gray Container Waste Evaluations Clarify the need for this section. As an operator of both a disposal facility and a mixed waste MRF, we sort a gray container collection stream at the MRF and would be unable to distinguish the remnant organic material <b>by jurisdiction</b> after sorting. Gray carts are already captured in the measurement requirements for source separated and mixed organic waste collection streams. If this section is intended to apply only to gray carts that will be sent directly to landfill, clarify under which container system section a gray cart will be subject to these evaluation, as gray cart evaluations should not be necessary at facilities where all waste streams are sorted (e.g. mixed waste MRFs). It appears that this section is intended to verify the effectiveness of a jurisdiction's programs. If that is the case, it should not be a requirement of facility operators. The number of samples and frequency are operationally and fiscally burdensome to facility operators.	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
1034	Bell, Kevin, WPWMA	21570 <b>Delete this requirement.</b> CalRecycle has not clarified why a public meeting is necessary prior to submittal of a permit application package when a similar requirement for an informational meeting already exists after submittal. Operators are currently 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. Furthermore, the requirements under existing Section 21660.2 already impose an informal meeting for New and Revised permits after submittal.	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).
1035	Bell, Kevin, WPWMA Kernkamp, Hans, Riverside County Department of Waste Resources Prinz, William, City of San Diego Local Enforcement Agency	21695(i) Remove the comparison to final cover as a benchmark for intermediate cover performance and rely on existing surface emission regulations. Constructing a properly compacted, graded and seismically stable waste mound typically requires the mound to be constructed in stages, resulting in three or more deployments of intermediate cover before final grades are met and final cover can be placed. The benefit of installing a robust daily or intermediate cover must be weighed against the construction effort and construction emissions associated with the intermediate construction steps.	CalRecycle has deleted Section 21695(i) in response to comments

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		<p>Landfills are already regulated under CCR Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 6: Methane Emissions from Municipal Solid Waste Landfills which requires surface monitoring of cover integrity (daily, intermediate, or final cover). If the cover does not meet regulatory performance standards, remediation is required. Facility compliance with the Landfill Methane Rule is expected to sufficiently address the SLCP concerns.</p> <p>The WPWMA has successfully complied with the methane surface emissions rules using intermediate cover (18" of soil), improving specific areas as needed, and continuing to improve the landfill gas control system. It appears a general increase to the soil cover depth at this landfill, and likely others, would not be beneficial to surface emissions control and would likely be negated by a sharp increase in construction related emissions to establish said cover.</p> <p>Furthermore, final cover at the WPWMA's landfill includes a plastic membrane with compacted soil above and below. The proposed requirement would force the intermediate cover to also include a membrane, essentially requiring all cover (except daily cover) to be final. This requirement is inordinately expensive for temporary, sacrificial cover to install, provide construction quality assurance testing consistent with typical geomembrane liner installations, protect during its use, and ultimately remove and replace numerous times as the landfill is filled as described above.</p>	
1036	Bell, Kevin, WPWMA	<p>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.</p> <p>These definitions appear to be in conflict with one another. Recommend clarifying the materials that are allowable in the gray container.</p>	<p>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.</p>
1037	Bell, Kevin, WPWMA	<p>Section 17402(a)(7.5): "Incompatible materials or incompatibles" should include materials, organic or otherwise, for which no identifiable and sustainable <b>markets</b> exist, in addition to those materials for which the facility is not designed, permitted or authorized to perform organic waste recovery activities.</p>	<p>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 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.</p>
1038	Bell, Kevin, WPWMA	<p>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.</p> <p>This term is misleading, as it seems to refer to mixed organics when the intent is mixed waste that could include organics. <b>Recommend removing "Organic" from the name so that it reads "Mixed Waste Collection System".</b></p>	<p>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.</p>



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1039	Bell, Kevin, WPWMA Sloan, Lisa, Santa Barbara County Local Enforcement Agency	<p>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.</p> <p>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.</p> <p>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 that daily measurement could equal or exceed these costs and provide no better data than potentially larger-scale semi-annual measurement. Clarify each “organic waste type” for which cubic yard samples must be taken.</p> <p><b>The WPWMA recommends no more frequent than semi-annual measurement with the primary focus on the organic content of materials destined for disposal.</b></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. 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> <p>Regarding organic waste type: 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.</p>
1040	Bell, Kevin, WPWMA	<p>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>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations. 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>
1041	Bell, Kevin, WPWMA	<p>Section 17409.5.11: The requirement for one load check per day per 500 tons per source sector is extremely onerous.</p> <p>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.</p>	<p>CalRecycle has deleted the loadchecking requirement from this section.</p>
1042	Bell, Kevin, WPWMA	<p>Section 17414.2(c): 3-year record retention requirement conflicts with 5-year retention required in Section 17869. <b>Recommend a single retention period of 3 years for all records related to the regulation.</b></p>	<p>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).</p>
1043	Bell, Kevin, WPWMA	<p>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</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>

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		<p>impact of odors on receptors considered a “nuisance” is subjective, the potential for which can never be eliminated.</p> <p><b>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.”</b></p>	
1044	Bell, Kevin, WPWMA	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.
1045	Bell, Kevin, WPWMA	Section 17869(a): 5-year record retention requirement conflicts with 3-year retention required in Section 17414. <b>Recommend a single retention period of 3 years for all records related to the regulation.</b>	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).
1046	Bell, Kevin, WPWMA	<p>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. <b>Recommend removing “Organic” from the name so that it reads “High Diversion Waste Processing Facility”.</b></p> <p>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?</p>	<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 and defined in Section 18982(a)(33).</p> <p>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>
1047	Bell, Kevin, WPWMA	<p>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.</p> <p>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.</p> <p>Additionally, these materials are not readily compostable, which is likely the main way processing facilities will be handling organics.</p> <p>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.</p> <p>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. <b>Recommend that treated wood waste not be classified as organic waste.</b></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. The regulations were revised to clarify that hazardous wood waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a></p> <p>CalRecycle will clarify will provide jurisdictions the guidance from DTSC.</p> <p>For the comment about pre-1924 organic lumber, the ‘organic lumber’ is organic waste and will be subject to the recycling requirements in Article 3.</p>

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1048	Bell, Kevin, WPWMA	Section 18983.1: <b>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.</b>	CalRecycle concurs that it is important to maintain 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 gas reductions that meets or exceeds the baseline of 0.30 MTCO <sub>2</sub> e per short ton. Currently, only the technologies and activities referenced in section 18983.1(b) have been verified to meet this baseline. However, to maintain flexibility and to consider all projects that are effectively equivalent to the baseline of 0.30 MTCO <sub>2</sub> e, the proposed regulation's includes section 18983.2, Determination of Technologies That Constitute a Reduction in Landfill Disposal. This section provides a pathway for including additional activities and technologies such as the one referenced in your comment.
1049	Bell, Kevin, WPWMA	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. <b>Suggest removing this requirement or allowing discretion for higher limits by reviewing agency.</b>	These comments are outside the scope of 15-day changes to the proposed regulations and therefore do not require a response. However, staff notes that these comments address identical issues raised in 45-day comments and are responded to in the section of the FSOR responding to 45-day comments. 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.
1050	Bell, Kevin, WPWMA	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. <b>Recommend revising to prohibit human and pet waste in the green container.</b>	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. 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.
1051	Bell, Kevin, WPWMA	Section 18984.2: <b>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.</b>	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

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			<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. 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.</p> <p>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).</p> <p>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.</p>
1052	Bell, Kevin, WPWMA	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.	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
1053	Bell, Kevin, WPWMA	Section 18987.2: Biosolids should also be allowed to be transported for use in alternative technologies identified in Section 18983.2. <b>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."</b>	CalRecycle has deleted Section 18987.2 in response to comments.

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1054	Bell, Kevin, WPWMA	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.
1055	Bell, Kevin, WPWMA	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.	Read together, section 18990.1 (b) (2) 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.
1056	Bell, Kevin, WPWMA	<b>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.</b>	CalRecycle has revised section 18993.1 to include electricity. CalRecycle disagrees with the recommendation to add “biochar” or “other landscaping 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. For more information regarding restrictions on the eligibility of mulch see the FSOR.
1057	Bell, Kevin, WPWMA	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 <b>prior</b> to enacting this requirement. Clarify that the addition of this material will not serve to reduce a landfill’s permitted airspace.	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
1058	Bell, Kevin, WPWMA	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.	This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.
1081	Bell, Kevin, Placer County Public Works	18982 (a)(66) While this definition was not revised, some sections of the regulation related to self-haulers were revised. We still feel 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	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

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		<p>facility, or other entity in California – this would be impossible for a jurisdiction to track. <b>We ask that CalRecycle remove this definition and related sections related to enforcement of self-haulers.</b></p> <p>Furthermore, the tracking of self-haulers in this regulation is not necessary. Businesses that self-haul organic waste, such as back-haulers, are currently identified and monitored through AB 1826 implementation or through AB 901 reporting, such as commercial landscapers, which should be sufficient. It is unclear how or why jurisdictions are to identify self-haulers outside of these methods.</p>	<p>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.</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> <p>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>
1082	Bell, Kevin, Placer County Public Works	<p>18983.2(a)(2)</p> <p>Suggest additional clarification to ensure that submittals are reviewed thoroughly and in a timely manner, and that facilities are notified promptly, e.g.: (2)... Within 30 days of receiving the application, the Department shall review and accept or reject the application and inform the applicant if the application is complete. If the Department finds that the application is not complete, it shall, within five days of rejecting the application, notify the applicant and enumerate the grounds for rejection...</p>	<p>Comment noted, the regulations include text stating that CalRecycle shall inform the applicant within 30 days if they submitted sufficient information in their application. Additional clarifying language is unnecessary.</p>
1083	Bell, Kevin, Placer County Public Works	<p>18984.1. Three-container Organic Waste Collection Services (a)(6) The additional color options should also be option available in a two-container system.</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>
1084	Bell, Kevin, Placer County Public Works	<p>18984.1.(d) Three-container Organic Waste Collection Services</p> <p>We appreciate the additional bag and containerized collection options. Please also allow the bags to be placed in the green container <b>or brown container.</b></p>	<p>Comment noted. Plastic bags may be used in the green or brown containers. 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.</p> <p>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).</p>

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			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.
1085	Bell, Kevin, Placer County Public Works	18984.2 Two-container Organic Waste Collection Services We appreciate these additional collection options. We recommend that the brown container option be allowed under the two-container system as well.	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
1086	Bell, Kevin, Placer County Public Works	18984.9 We have concerns about the requirement for businesses to place organic and recycling containers in customer areas due to concerns regarding contamination. There are many industry articles discussing the challenges with “front of house” recycling because people are often inclined to simply toss their garbage in the closest bin. This will introduce a waste stream with high contamination which will affect jurisdictions and facilities ability to meet the organics diversion targets. We ask that you reconsider this requirement.	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.
1087	Bell, Kevin, Placer County Public Works	18984.12 We appreciate this change that will capture additional low population areas and jurisdictions, avoid placing disproportionate economic costs on a small portion of the state’s population, and enable counties to focus on collecting organic waste from more high density areas where the most organic waste can be recovered, while avoiding unnecessary GHG emissions from collection vehicle mileage. However, we continue to recommend that there be consideration for large census tracts where the population is condensed in one area of the tract but most of the census tract is under the population density threshold. This could be done by allowing case-by-case proposals that document those low population densities within a tract, e.g. by census block.	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 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. Given the fact that census blocks change, CalRecycle would have no way of quantifying the total amount of organic material potentially exempted. 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. 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

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1088	Bell, Kevin, Placer County Public Works	<p>18984.12 We greatly appreciate the addition of this waiver which will benefit areas that frequently experience bear, or other wildlife, conflicts that endanger public safety.</p> <p>The County understands the reasons behind establishing an elevation threshold, however we request that CalRecycle also allow jurisdictions to request, on a case-by-case basis, a waiver in specific lower elevation areas based on local circumstances, such as documented bear issues. The State Department of Fish and Wildlife have released an American Black Bear Habitat map which documents habitat in much lower elevations, which demonstrates that bear issues could be experienced in lower elevations.</p>	<p>waste reduction requirement. For example black carbon generation in a census tract is unrelated to organic waste generation.</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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 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 &lt;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>



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			<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>
1089	Bell, Kevin, Placer County Public Works	<p>1894.13 However, the compliance ramifications of disposing this organic waste is unclear. It should be made clear that neither the jurisdiction or receiving facility needing to qualify as “high diversion” should be penalized in any way under this regulation.</p>	<p>CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs.</p>
1090	Bell, Kevin, Placer County Public Works	<p>18985.1 <b>We recommend that the proposed regulations use the current public health standard of five percent of a “substantial number of non-English-speaking people”.</b> This will allow a jurisdiction to utilize existing language resources and not invest in establishing a more stringent standard. The typical Public Health Standard to provide materials is “substantial number of non-English-speaking people” “and who comprise 5 percent or more of the people served by the statewide or any local office or facility of a state agency” (California Government Code Section 7296.2). It seems an inappropriate public policy to have solid waste education and outreach more stringent than essential public health requirements.</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>
1091	Bell, Kevin, Placer County Public Works	<p>18988.3. We appreciate this revision. However, we maintain our prior position that local jurisdictions should not be put in the position of enforcing the remaining requirements against generators that self-haul their organic waste.</p>	<p>1091 - The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>
1092	Bell, Kevin, Placer County Public Works	<p>18989.1 <b>We disagree with including enforcement of the CalGreen standards in this regulation and recommend this section be deleted to avoid enforcement confusion, duplication and overlap.</b> Nothing in SB 1383 transitioned authority to</p>	<p>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 MWEL. The regulations impose a requirement that jurisdictions adopt an ordinance or other enforcement mechanism that requires compliance with certain provisions of</p>

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		CalRecycle. Building standards are issued by the Building Standards Commission, implemented and enforced by local Building Departments, and are not subject to the authority of CalRecycle.	the CalGreen Building Standards Code and MWELo. Jurisdictions are already required to comply with these requirements, including them in the regulations ensures that CalRecycle can require that policies that are necessary to reduce organic waste disposal are implemented. Nothing in statute or regulation mandates that solid waste Local Enforcement Agencies enforce these requirements.
1093	Bell, Kevin, Placer County Public Works	18989.2 Again, nothing in SB 1383 transitioned authority to CalRecycle. <b>We disagree with this requirement as well, and recommend it be deleted, because jurisdictions are already required to adopt MWELo and, again, to avoid unnecessary regulatory duplication.</b>	CalRecycle is not adopting a new building code. The regulations require jurisdictions to enforce the aspects of CalGreen and MWELo requirements that help reduce the disposal of organic waste. Jurisdictions are already required to comply with these requirements, including them in the regulations ensures that CalRecycle can require that policies that are necessary to reduce organic waste disposal are implemented.
1094	Bell, Kevin, Placer County Public Works	18990.1 This section prohibits a jurisdiction from adopting or enforcing an ordinance, policy, permit condition, etc. that would prohibit organic waste coming from outside the jurisdiction. We repeat that we strongly object to any regulatory concept 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.	The proposed regulatory text currently allows for jurisdictions to guarantee facility capacity for organic waste generated from the jurisdiction. A change to the regulatory text is not necessary.
1095	Bell, Kevin, Placer County Public Works	18992.1 As previously commented, the definition and application of the term “community composting” is confusing and should be clarified. Since a community composting site is an excluded regulatory tier per Title 14 Section 17855, it is unreasonable to require jurisdictions to be aware of “any activity that composts green material”, as these activities are defined, and consult with them on capacity planning.	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 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.
1096	Bell, Kevin, Placer County Public Works	18992.1 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 can take several years to complete the permitting process. To place the responsibility of providing sufficient capacity entirely on local jurisdictions is not realistic and we request it be deleted. This effort will require both state involvement and streamlining of permitting and other barriers.	The regulations include a provision to allow for a Corrective Action Plan if a jurisdiction has demonstrated substantial effort and has extenuating circumstances. CalRecycle has also provided an accommodation with a waiver from the collection requirements for rural jurisdictions and after 2025 for low population jurisdictions.

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1097	Bell, Kevin, Placer County Public Works	<p>18992.3 This section is not clear if reporting will be part of the existing Jurisdiction Electronic Annual Report (EAR) or a separate report. Please provide clarifying language. If separate, separate reports due on the same day would likely result in overlapping information and unnecessary additional burden. In order to avoid duplicative efforts and possibly conflicting information, this reporting requirement should be included in the appropriate year's EAR.</p>	<p>A change to the regulatory text is not necessary. The annual reporting dates required in Section 18994.2 do align with the current reporting dates for the Electronic Annual Report, both due on August 1st of each year. Reporting for the first year, jurisdictions complying with Section 18994.1 may report for the January 1, 2022 through June 30, 2022 on October 1, 2022, otherwise their first report is due August 1, 2022. Each subsequent report shall cover the entire reporting year and is due August 1 of the following year.</p> <p>A change to the regulatory text is not necessary. The annual reporting required by the SB 1383 regulations will be incorporated into the existing Electronic Annual Report.</p>
1098	Bell, Kevin, Placer County Public Works	<p>18993.1 As previously commented, we specifically oppose assigning a specified procurement amount, especially one that requires purchasing far more product than needed. The recent revision increases the target over 14% with no explanation – please explain this revision.</p> <p>Overall, this section reflects a fundamental misunderstanding of jurisdiction needs and serious flaws in the underlying assumptions, resulting in huge gaps between the target and jurisdiction needs. First, using the GDP as a guide (applying local government's portion of the GDP to the total tons of organics ultimately diverted under SB 1383, implies that all economic sectors utilize compost equally and assumes the availability of products that are not currently available, and may not be for years – which results in a target that is unrealistic and forces a jurisdiction to purchase far more than they need. As an example, the County's compost procurement target would be over 13,000 cubic yards when our annual need is only 100. While we use some renewable gas, most of the alternatives are not currently available to us.</p> <p>There are numerous other concerns, with the regulation as written – such as putting the entire purchasing burden on local government when other sectors (such as agriculture and State Agencies) have much greater need and on which market development should be focused; biogas-derived fuel products are not available to all jurisdictions as an alternative; the regulation does not consider other materials and reuse methods which achieve the same goal of diverting organic waste, and that it would cost our agency nearly \$500,000 annually in compost purchases we don't need.</p> <p>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. 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.</p>	<p>A specified procurement amount is necessary for jurisdictions to measure compliance with Article 12, which is necessary to achieve the ambitious diversion targets required by SB 1383. Please refer to the Final Statement of Reasons for Section 18993.1 which includes text explaining the purpose and necessity of the provisions of the final regulation including the per capita procurement target. The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from the department's Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.</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. 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>Regarding putting the burden on other sectors, CalRecycle cannot impose procurement mandates on other state agencies or sectors without the necessary statutory authority, which SB 1383 lacks. For example, 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. 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</p>

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		<p><b>Therefore, we strongly urge CalRecycle to delete this section and take up market development of organic materials in a separate, future effort which would allow more time for additional and more reasonable approaches to be vetted and discussed among stakeholders and industry experts and once the state has a better understanding of the types and availability of end products from diverted organics.</b></p> <p>However, if this remains in the regulation we suggest a much simpler approach such as instead requiring jurisdictions to adopt green procurement policies that require a certain percentage of a jurisdiction’s necessary purchases (rather than an assigned amount) be recycled products, similar to the requirements of Public Contract Code 12203.</p>	<p>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> <p>Regarding CalRecycle authority, 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. 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 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>

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			<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>
1099	Bell, Kevin, Placer County Public Works	<p>18993.1 We appreciate the added clarification. However, the revisions fail to include other activities that reduce the amount of organic waste landfilled; therefore, mulch and other organic recycled products should also be allowable purchases.</p>	<p>CalRecycle has revised section 18993.1 to include electricity. CalRecycle disagrees with the recommendation to add “biochar” or “other landscaping 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. For more information regarding restrictions on the eligibility of mulch see the FSOR.</p>
1100	Bell, Kevin, Placer County Public Works	<p>18993.1 However, the regulation does not specify the portion that must come from feedstock. We suggest clarifying and requiring 100%, or otherwise applying a prorated amount of credit toward the procurement target.</p>	<p>Section 18993.1(i) states that electricity procured from a biomass conversion facility may only count towards the procurement target if the facility receives feedstock from identified solid waste facilities. Similar to anaerobic digestion facilities producing renewable gas, the facility is not required to quantify the exact amount of feedstock received from each source. As biomass conversion facilities are not solid waste facilities, the intent of this section is only to establish an appropriate nexus with SB 1383 statute that specifically directs CalRecycle incentivizes biomethane from “solid waste facilities.” This section ensures that the biomethane incentivized is biomethane derived from solid waste facilities. It is not necessary at this time to require quantification of all biomass feedstock sources. Additionally, CalRecycle currently receives annual reports on feedstock received by biomass conversion facilities, allowing a cross-check on this requirement.</p>
1101	Bell, Kevin, Placer County Public Works	<p>18993.1 While we appreciate the attempt to provide an option for lowering the target, these provisions are confusing and illogical – it does not make sense so base a potentially reduced compost procurement target on amount of fuel purchased. It will not have the same effect on all jurisdictions, potentially resulting in a target higher than the originally assigned. We feel that this further supports that these requirements are too cumbersome and complicated and should either be deleted or significantly simplified.</p>	<p>The commenter is likely referring to section 18993.1(j) which provides jurisdictions with a method to lower their procurement target to ensure that a jurisdiction does not procure more recovered organic waste products than it can use. 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 or mulch (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>

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			<p>electricity, and gas procurement, a jurisdiction can still choose to meet its lowered procurement target with any recovered organic waste products, including compost. However, it is inaccurate to claim, as the comment suggests, that a jurisdiction's procurement target is based on transportation fuel use which determines the amount of compost to be procured.</p>
1102	Bell, Kevin, Placer County Public Works	<p>18994.1          Considering the myriad compliance categories, and to avoid a wide variety of responses from jurisdictions, the regulation should clarify which public official / officer is eligible to have this responsibility. Considering that it is appropriate that it be a high ranking official, and the potential effort involved if this person must then be responsible for identifying the appropriate department/division/staff-level contact for the wide variety of potential compliance issues and/or penalties, significantly more time should be provided for jurisdictions to respond to such CalRecycle communications, especially issuances of accusations. For this, we recommend significantly more time than 15 days be provided to respond in section 18997.5(d), such as 45 days.</p>	<p>A change to the regulatory text is not necessary. Allowing 15 days for the respondent to request a hearing is the standard amount allotted in the hearing procedures prescribed in PRC Section 44310 for solid waste facilities. Also, Section 18994.1(a)(3) requests the jurisdiction employee that is the primary contact for compliance related issues and the contact information for the agent designated for the receipt of enforcement service of process. This was intended as a method to ensure that enforcement process is routed directly to the correct person in the jurisdiction for purposes of efficiency. It is incumbent upon the jurisdiction to ensure that the designated contact person or agent for service of enforcement process understands how to route documents in a timely and proper manner. If penalties are being enforced, it will be at the end of a notice of violation process where the jurisdiction will already be on notice as to the factual and legal nature of the case. Moreover, the standards for filing requests for hearing do not require a high informational threshold.</p>
1103	Bell, Kevin, Placer County Public Works	<p>18996.2.          This is inconsistent with the intent of SB 1383, failing to incorporate provisions for a jurisdiction demonstrating a "good faith effort" to comply. SB 1383 (PRC § 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".          PRC Section 41825 establishes a process to be used by CalRecycle in evaluating a jurisdiction compliance with State mandated recycling goals, requiring CalRecycle to consider "good faith efforts" by the jurisdiction in making its determination of the jurisdiction progress. 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 landfill reduction mandates.           We are also greatly concerned 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</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>

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		decision-making bodies” approval. We request that CalRecycle revise the definition of “substantial effort”, “extenuating circumstances”, and “critical milestones” as defined Section 18996.2 (a) to be consistent with provisions of PRC Sections referenced above.	
1104	Bell, Kevin, Placer County Public Works	18996.2 We appreciate this revision. However, as commented previously, the section clarifies in 19886.2(a)(2)(B) that “substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply”, 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.	This comment is not germane to changes to the regulations subject to the 15 day comment period.
1105	Bell, Kevin, Placer County Public Works	18996.7 We appreciate the clarification of federal facilities but are disappointed that the only penalty for non-compliance for these agencies is placement on a non-compliance list. We repeat our previous comment that this regulation unfairly places a disproportionate financial burden on counties and cities and penalties should be equally applied to all entities. We therefore find it difficult to justify or support 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, only get put on a “list-of-shame” for non-compliance.	A change to the regulatory text is not necessary. CalRecycle does not have the authority to impose penalties on federal facilities.
1106	Bell, Kevin, Placer County Public Works	18997.2 We appreciate this revision, however remain concerned with the extent of mandatory penalties jurisdictions are required to impose on generators. SB 1383 clearly and intentionally states that CalRecycle may only “authorize (not require) local jurisdictions to impose penalties on generators for noncompliance.” The extensive penalty table is contrary to the language of SB 1383 and also conflicts with Government Code provisions. We recommended it be deleted and penalties only be considered in a future, separate regulatory effort once there has been ample time to assess implementation of the regulation.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period. 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.
1107	Bell, Kevin, Placer County Public Works	18997.3.(e)	A change to the regulatory text is not necessary. Section 18993.1(a) states that a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current

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		<p>This section is unclear; it appears that the intent is to provide a mechanism to apply partial fines for not meeting the full procurement target, but it needs clarification to avoid the misperception that the regulation is establishing a daily procurement target/expectation.</p> <p>Again, local procurement mandates are not authorized by SB 1383; the statute clearly authorizes 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. Again, we recommend Article 16 be deleted from this regulatory phase and taken up as a separate, future item when we all have more information on the types and availability of end products made from diverted organics. We also recommend creating an exemption for jurisdictions who, due to unforeseen circumstances, are unable to meet the procurement requirements in Article 12. There may be instances where it's impossible to procure organic waste products due to lack of availability, infrastructure, or budget constraints.</p>	<p>annual recovered organic waste product procurement target. Section 18997.3(d) was added to the regulation text to allow a method to issue penalties on a per day basis consistent with the limitations on penalty amounts in SB 1383 for a procurement target that is measured on a per year or annual basis to be fair, equitable, and avoid excessive penalties. These penalty provisions should not be misunderstood as a per day procurement target.</p>
1108	Bell, Kevin, Placer County Public Works	<p>"Gray container waste" - This definition is inconsistent with use of the term in other sections of the regulation. We recommend that CalRecycle revisit this term and the use of it, and provide clarification, particularly as it relates to the gray container evaluations (as commented further under Section 20901). If the intent is that this refers to carts that will not be sorted, but sent straight to landfill and therefore subject to the gray container evaluations, the definition may need to be revised to clarify that and to have consistent meaning throughout the regulation.</p>	<p>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.</p> <p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments.</p>
1109	Bell, Kevin, Placer County Public Works	<p>17409.5.4 It is unclear if or how this regulation applies to out of state compost facilities used by jurisdictions.</p>	<p>Section 17409.5.4 falls under the Transfer/Processing requirements of Title 14, California Code of Regulations, and focuses on how much organic content is being recovered from the source-separated organic waste collection stream. This regulation would not apply to out of state compost facilities.</p>
1110	Bell, Kevin, Placer County Public Works	<p>17414.2 (d) Solid waste facilities are currently required to retain records for a period of 3-years; the requirement for 5-years is excessive and above what is already required.</p>	<p>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).</p>
1111	Bell, Kevin, Placer County Public Works	<p>18815.5 (e) Also, the recovery sums are reported by the facilities to CalRecycle, but there is no requirement on when or who notifies the facilities of CalRecycle's review and determination. <b>Please amend to state that CalRecycle will notify both facilities and jurisdictions of their determination in a timely manner.</b></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>



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			<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>
1112	Bell, Kevin, Placer County Public Works	<p>18984.7</p> <p>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.</p> <p>However, 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.</p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>
1113	Bell, Kevin, Placer County Public Works	<p>18984.8</p> <p>Overall, 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. 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> <p>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. 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> <p>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>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>
1114	Bell, Kevin, Placer County Public Works	<p>Outreach</p> <p>We strongly recommend that jurisdictions be able to develop and implement their own outreach messages and methods that suit their programs and communities</p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>

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		<p>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 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.</p> <p>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.</p>	
1115	Bell, Kevin, Placer County Public Works	<p>18992.1. (c) 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. <b>This requirement should be deleted.</b></p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
1116	Bell, Kevin, Placer County Public Works	<p>18992.1. 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.</p>	The regulations allow for a Corrective Action Plan (CAP) that provides additional time under specified conditions regarding delays in securing organics recycling capacity.
1117	Bell, Kevin, Placer County Public Works	<p>18993.1. 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>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 (e.g. mulch), which 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.</p> <p>Therefore, mulch and other organic recycled products should also be allowable purchases.</p> <p>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>	<p>A specified procurement amount is necessary for jurisdictions to measure compliance with Article 12, which is necessary to achieve the ambitious diversion targets required by SB 1383. 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 comment lacks 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>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 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. For more information regarding restrictions on the eligibility of mulch see the FSOR.</p>

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		<p>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> <p>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.</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> <p>Regarding "more flexibility", CalRecycle has expanded the list of recovered organic waste end products eligible for a jurisdiction to meet the procurement target.</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. 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>
1118	Bell, Kevin, Placer County Public Works	<p>18996.6</p> <p>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.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</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,</p>

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			implement programs to reduce waste disposal and they have their waste diversion performance annually reviewed by the Department.
1119	Bell, Kevin, Placer County Public Works	<p>Administrative Civil Penalties</p> <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. 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.</p>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
1120	Bell, Kevin, Placer County Public Works	<p>Administrative Civil Penalties</p> <p>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, only to get put on a “non-compliance list” for failure to comply.</p> <p>There must be some consideration in the regulation for the National Sword impacts, particularly in regard to its impact on paper markets. Jurisdictions should not be penalized for market conditions that are out of their control.</p>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
1121	Bell, Kevin, Placer County Public Works	<p>Administrative Civil Penalties</p> <p>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 with legal counsel, and prepare a response. The regulation should allow at least 90 days for a jurisdiction to respond.</p>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
1122	Bell, Kevin, Placer County Public Works	<p>Operating Standards</p> <p>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.</p>	This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.
4286	Bellushi, B. County of Ventura Public Works	Within “Definitions”, there is no definition of “EA”. While there is a definition of “Enforcement action”, this does not apply to the acronym “EA” as it used throughout the document. There must be a definition explaining who, or what, comprises an “EA”.	A change to the regulatory text is not necessary. EA is already defined in Section 17402(a)(5).
3051	Bertea, C., Oakland Resident	<p>My primary concern is with SB 1383 section 18984.4 (5) —similar wording occurs in 18984.1 and in 18984.2</p> <p>It is stated that plastic bags may be used to collect organic waste provided the facility can “process and remove” plastic bags from source separated organic waste.</p>	Comment noted. Plastic bags may be used in the green or brown containers. 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

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		<p>18984.4 (5) If the jurisdiction allows organic waste to be collected in plastic bags pursuant to Section 18984.1 or 18984.2, a copy of written notification received from each facility serving the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste.</p> <p>I have toured our local Waste Management transfer station and the “green waste” (food and yard waste) piles were full of all sorts of plastic bags, etc.</p> <p>When I’ve used composted yard waste from large facilities it is alarmingly full of little bits of ground up/chewed up plastic bags.</p> <p>Apparently these large facilities ARE NOT ABLE TO REMOVE plastics, or they would be doing so already.</p> <p>In my jurisdiction when people have extra green waste that does not fit into the “green bin” they get large strong paper bags from the waste hauler to put their excess yard trimmings into. That seems like a much better alternative than trusting that these large facilities can effectively remove plastic bags from collected organic materials.</p> <p>I realize you may be thinking that people (generators?) will put food waste into plastic bags because of its moisture content. That is an issue, true, but in the search for widespread compliance and "making it easy" for people the environment will be compromised. And we all depend on a functional environment.</p> <p>We are just becoming aware of the perils of microplastics in the soil and waterways and ocean...so many creatures starving with bellies full of bits of plastic, and now micro plastics showing up in our own bodies.</p> <p>The PRECAUTIONARY PRINCIPLE would suggest that we avoid any behavior that even might introduce plastic into the soil or waterways (via soil).</p> <p>An organics treatment facility being able (or willing) to separate out plastic bags of every possible size and shape seems ...farfetched to me. Perhaps they will grind them into smaller pieces as a method of “processing”? or find some other creative way to disappear them. This is not a solution.</p> <p>At the very least “compostable” plastic bags must be required!</p>	<p>allowed in the three or two container systems as long as the facility can process and remove the bags.</p> <p>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).</p> <p>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.</p>
8108	Blakeslee, Kevin Department of Public Works	Section 18982 (a)(28). <b>The second sentence of the definition of a "gray container" states that hardware on a green container may be a different color. It is believed that is a typographical error and should have instead referred to hardware on a gray container.</b>	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say ‘gray’ instead of ‘green.’
8109	Blakeslee, Kevin Department of Public Works	Section 18982(a)(36). The definition of a "jurisdiction" was revised to include a special district that provides solid waste collection services and also now includes language that allows a special district to utilize a Joint Powers Authority to comply with requirements of the chapter. Clarify if this will require Community Service Districts that have solid waste authority to report compliance efforts directly to CalRecycle.	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. If a Joint Powers Authority such as a regional agency is being utilized to comply with the chapter, an employee of the JPA may be reported as the contact person. However, CalRecycle notes that a performance-based source separated organic waste collection service must be implemented throughout a whole jurisdiction rather than piecemealing parts.
8110	Blakeslee, Kevin Department of Public Works	Section 18984.11(a)(1). The County has several part-time residents in our Mountain and desert areas and suggests allowing jurisdictions to grant De Minimis waivers for residential generators that have provided documentation or that the jurisdiction has	There is nothing that prohibits the jurisdiction from having more restrictive criteria. The language does not limit de minimis waivers to three-container systems.

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		evidence demonstrating that either their total solid waste collection service is less than 95-gallons per week and organic waste comprises less than 2 gallons per week of the residents' total waste or that the amount of total solid waste generated by the resident is less than 35-gallons per week.	Regarding part time residential waivers. CalRecycle is not able to quantify how much material would be exempt, and many of these residents would be captured under the low population waivers in Section 18984.12. Such a waiver could compromise the state's ability to meet the organic waste reduction targets. CalRecycle does not concur with waiving to "part-time" residents as the term is undefined and could encompass a significant amount of waste generation when the property owner is in residence.
8111	Blakeslee, Kevin Department of Public Works	Section 18984.13 (c). Would this section apply to abatement of illegal disposal at vacant lots as part of community clean-up events?	A jurisdiction is not required to separate or recover organic waste that is removed due to illegal disposal as part of a community clean-up event.
8112	Blakeslee, Kevin Department of Public Works	Section 18992.1 (a). <b>Suggest changing language to state "Counties, in coordination with jurisdictions and regional agencies located within the county ... " to be consistent with language in section 18992.1(a)(1).</b>	The term jurisdiction is defined in Section 18982. The terminology used in Article 11 is appropriately aligned with the requirements of existing statute whereby some jurisdictions (e.g. cities and regional agencies) work in coordination with counties to identify organic waste recycling capacity. CalRecycle has Section 18992.1 to provide further clarity that counties are required to estimate disposal of organic waste from all jurisdictions, not just cities.
8113	Blakeslee, Kevin Department of Public Works	Section 18992.1. Language was changed from "cities" to "jurisdictions" in some but not all areas of this section. Inconsistencies in language make it difficult to determine the responsibilities of special districts that provide solid waste collection services. Are special districts that provide solid waste collection services able to perform their own waste characterization studies? Are they required to respond to the County's request for information as outlined in section 18992.1(b) and (c)?	The term jurisdiction is defined in Section 18982. The terminology used in Article 11 is appropriately aligned with the requirements of existing statute whereby some jurisdictions (e.g. cities and regional agencies) work in coordination with counties to identify organic waste recycling capacity. CalRecycle has Section 18992.1 to provide further clarity that counties are required to estimate disposal of organic waste from all jurisdictions, not just cities.
8114	Blakeslee, Kevin Department of Public Works	Section 18992.2(a). <b>Suggest changing language to "Counties, in coordination with jurisdictions and regional agencies located within the county..." to be consistent with language used in section 18992.1.</b>	The term jurisdiction is defined in Section 18982. The terminology used in Article 11 is appropriately aligned with the requirements of existing statute whereby some jurisdictions (e.g. cities and regional agencies) work in coordination with counties to identify organic waste recycling capacity. CalRecycle has Section 18992.1 to provide further clarity that counties are required to estimate disposal of organic waste from all jurisdictions, not just cities.
8115	Blakeslee, Kevin Department of Public Works	Section 18992.2(b). <b>Suggest changing language to "... county in coordination with jurisdictions and regional agencies located within the county..." to be consistent with other language used in this section.</b>	The term jurisdiction is defined in Section 18982. The terminology used in Article 11 is appropriately aligned with the requirements of existing statute whereby some jurisdictions (e.g. cities and regional agencies) work in coordination with counties to identify organic waste recycling capacity. CalRecycle has Section 18992.1 to provide further clarity that counties are required to estimate disposal of organic waste from all jurisdictions, not just cities.
8116	Blakeslee, Kevin Department of Public Works	Section 18997.3, Table 1, 5th offense (151 offense listed in the table on page 76). Added text "or continues" does not make sense within the context of the original description of the violation. Additionally the violation references section 18984.2(a)(3) which has been deleted in the new draft regulations.	The penalty tables in Section 18997.3, including Table 1, were deleted in favor of a minor/moderate/major penalty model modified by various factors. The language revision was intended to provide the Department the ability to set penalties on a case specific basis and weigh issues of equity. CalRecycle has revised Section 18997.3 Table 1 in response to this comment. Table 1 was updated with the correct section numbers for the violation related to a jurisdiction failing to transport waste to a facility that meets the high diversion requirements.
8117	Blakeslee, Kevin Department of Public Works	Section 18997.3, Table 2, 4th offense (2nd offense listed in the table on page 79). Added language does not make sense within sentence structure of the original	The penalty tables referenced in this comment were removed. The penalty tables in Section 18997.3, including Table 1, were deleted in favor of a minor/moderate/major penalty model

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		description of the violation. Suggest changing to read "Jurisdiction fails to provide education and outreach materials in a manner consistent with this section."	modified by various factors. The language revision was intended to provide the Department the ability to set penalties on a case specific basis and weigh issues of equity.
8118	Blakeslee, Kevin Department of Public Works	Section 18997.3, Table 7, 4th offense (4th offense listed in the table on page 85). This offense references section 18988.3(b), which has a newly deleted section regarding self-hauler annual reporting to jurisdiction, 18988.3 (b)(4). If self-haulers are not required to report annually to jurisdictions the amount and location of self-hauled source separated organic waste, how will jurisdictions determine if a self-hauler has failed to comply with the requirements of section 18988.3(b)?	A change to the regulatory text is not necessary. Jurisdictions have the discretion to add enforceable mechanisms into their ordinances to determine if a self-hauler is complying with the requirements. Section 18988.3(b) includes other provisions to verify that a self-hauler is complying with the regulations.
8119	Blakeslee, Kevin Department of Public Works	Section 17409.5.7.2. <b>Check formatting for sequencing. Missing subsection (b).</b>	CalRecycle has revised this section accordingly.
8120	Blakeslee, Kevin Department of Public Works	Section 17409.5.7.1 and Section 20901.1. If the gray container waste evaluation frequency is determined by the tonnage received at a transfer/processing operation or facility or disposal facility from the gray container collection stream by a jurisdiction, the effective date to begin the evaluations should be changed to July 1, 2023 since the tonnage received from the gray container collection stream will change significantly from the 2021 calendar year to the 2022 calendar year with the implementation of SB 1383 requirements in 2022.	A change to the regulatory text is not necessary. With regulations going into effect in January 2022, waste evaluations will be required to commence July 1, 2022. CalRecycle had deleted Section 20901.1 and has revised Section 17409.5.7 in response to comments. The change to the gray container waste evaluation 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 be required to conduct one waste evaluation per quarter.
8121	Blakeslee, Kevin Department of Public Works	Section 17409.5.7-17409.5.7.2 and Section 20901-20901.2. The County operates 5 landfills and 9 transfer stations. As an example of the impact that these sections would impose on our jurisdiction, using tonnage data from the 17-18 fiscal year, it was found that our largest landfill receives waste from 12 jurisdictions that would require a total of 168 gray container waste evaluations annually. For each of the 168 samples, in order to have the required random composite samples (assuming 3 composite samples per day), a total of 504 samples would need to be taken annually. Assuming that it takes a crew of two staff approximately 2 hours to perform each sample, that would mean it would take 1,008 hours per year to perform those samples. This does not taken into account the additional equipment needed to perform these samples. This example is just for one of our landfills. We have a total of 5 landfills and 4 transfer stations that would be impacted by this section and require a total of approximately 2,100 samples per year, 4,200 working hours per crew, and 2,174 additional equipment hours to manage these samples.	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
8122	Blakeslee, Kevin Department of Public Works	Section 20901.1. Does the tonnage received during the previous calendar year at a disposal facility used to determine the number of waste evaluations that shall be conducted include tonnage coming from transfer loads from transfer facilities that would have already conducted gray container waste evaluations? As an example, our County has an import agreement with our disposal site operator in which a large amount of waste is brought into our disposal system through transfer trucks that have waste from jurisdictions within Los Angeles County. Would this waste be subject to the gray container waste evaluations? The jurisdiction origins for this	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.

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		waste is done through allocations as part of monthly reporting after the waste is received at our disposal sites. How would disposal site staff be able to determine which jurisdiction the waste belongs to when received on-site?	
4520	Blischke, Black & Veatch	<p>Article 2. Landfill Disposal and Reductions in Landfill Disposal  Section 18983.1 Landfill Disposal and Recovery {page 13 of 165; Line 38}  Paragraph (6)(8) "Biosolids used for land application shall:  1. Have undergone anaerobic digestion or composting, as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, and, ... "  Comment: As written, this section is overly restrictive and affect POTWs that are or want to implement an alternative process. For example, Appendix B of Part 503 does not address some advanced digestion processes that are designed to reduce solids retention time associated with anaerobic digestion, like thermal hydrolysis (THP). We request that CalRecycle stipulates that biosolids to be land applied must comply with the Part 503 requirements.</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<sub>2e</sub> 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.  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<sub>2e</sub> 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 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>
4521	Blischke, Black & Veatch	<p>Article 12. Procurement of Recovered Organic Waste Products  Section 18993.1. Recovered Organic Waste Product Procurement Target {page 50 of 165; Line 39}  Paragraph (g)(1) {page 51, line 37}:  Comment: Conversion factors for one ton of organic waste in the annual recovered organic waste product procurement target does now also include kWh of electricity and therms of heating. One-ton of organic waste appears to be defined as one <b>wet</b> ton. This is a poor reference unit due to variability in the material. A better reference unit would be a <b>dry</b> ton.  The regulation does not provide details on the procurement accounting - We seek clarification how a jurisdiction (including POTW) can benefit from producing biogas for combined heat and power (CHP) and or producing compost from biosolids or dewatered digestate. Does a jurisdiction (including POTW) get credit for the beneficial use of biogas (for power and heat) and or compost?</p>	<p>CalRecycle disagrees with the comment claiming dry ton basis is more appropriate. Wet ton basis is more appropriate for landfill diversion accounting because it is the wet ton (i.e. the organic waste including moisture content) that counts as diversion from a landfill. Therefore, it is appropriate to calculate the conversion factors using wet tons. In the case of biomass, which is typically calculated in bone dry tons (bdt), an average moisture content factor of 35% was added to the biomass electricity conversion factor to maintain consistency with the other conversion factors.  Regarding "procurement accounting", the regulations only mandate the procurement (i.e. the purchase or production) and use of the recovered organic waste product(s). Biogas may include on-site use at a POTW for electricity or heat, provided the biogas meets the Section 18982(62) "renewable gas" definition. Compost from biosolids or digestate may count 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. A note has been added in section 18993.1(f)(1)(B) to reflect this distinction.</p>



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4522	Blischke, Black & Veatch	<p>Paragraph (h) {page 52, line 1}:            Comment: Renewable gas procured from a POTW only counts toward the jurisdiction's organic waste procurement target if (1) the POTW receives organic waste from a solid waste facility and (2) the POTW transports less than 25 percent of its generated biosolids to a landfill.</p> <p>(1): To qualify under this provision a POTW can only receive organic waste for co-digestion or dedicated digestion from (an on off-site) permitted solid waste facility. This provision would not allow a POTW to receive credit for receiving of organic material from other facilities such as breweries, restaurants (fats, oil, and grease), grocery stores (e.g., via an on-site food waste maceration system), wholesale facilities or food distribution centers as these facilities do typically not have a solid waste facility permit. This will limit a POTW to receive, for example, pumpable organic waste from these facilities in the future and have its products (renewable gas or compost) be accounted for to meet its recovered organic waste product procurement target. We request revising this provision by expanding the definition from where the POTW can receive organic waste.</p>	<p>The purpose of the proposed regulatory language is to be consistent with SB 1383 statute that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. This requirement allows the department to verify that these facilities are reducing the disposal of organic waste.</p>
4470	Boone, Center for Recycling Research	<p>SOURCE-SEPARATED ORGANICS ARE NOT A WASTE: SSOs (as they are known) are the basic building blocks of compost, animal feed, etc. They have a place in the stream of commerce. When they revised the definition of recycling in the July 20, 1989 print of AB 939, they made it clear that recycling does not deal with wastes but with "materials that would otherwise become wastes." Unfortunately, the garbage industry applauds all slip-ups and encourages bill writers and others then and now to talk about unwanted or discarded materials as "wastes." This mislabeling simply discourages free market players from touching whatever it is that the garbage firms want to be the only ones allowed to haul. Please correct this error.</p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>
4471	Boone, Center for Recycling Research	<p>GETTING ORGANICS OUT OF THE MIXED WASTE STREAM: The tolerance, even enthusiasm, in the regulations for an unsegregated single container collection service to lower the amount of organics to be loaded into landfills reflects the continuing interest of the garbage-as-usual forces active in the waste reduction and recycling movement to minimize inconvenience to their existing customers and to perpetuate as long as possible into the future the lower standards and casual treatment of our state's discards. There's certainly nothing in the statute that calls for such practices to be condoned or encouraged and, as Jerry Powell said in the July, 2019 issue of Resource Recycling magazine, "xxxxx." The recent decision of the European Community to require the source-separated collection and processing of organics in this 26 country, 520 million people area, starting in 2024, should be a clear and earnest message to California that we don't want to wait twenty years as the Europeans did to discover that mixed waste processing doesn't work. My guess is that if the progressive community in California can find the resources to challenge this whole stream of regulation that a lawsuit will be filed in the near future challenging the concept and the practice. The idea of a high diversion organic waste</p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>

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		<p>processing facility [HDOWPF] moves against the long track record of multiple failures of such projects throughout the USA. The numbers I hear (unverified) is that about 30% of the organics that enter a MxWP facility get diverted by the sorting system for treatment as organics; source separation does a lot better than that. The refusal or timidity of local governments in pushing SSO for all clients is the root of much of our current problems and the source of our need for SB 1383 which is HDOWPF rule will not help but hinder. Able-bodied people need no crutches, and if you can't walk yourself, you can get others to do it. If we can teach people not to smoke in bars or restaurants, we can get them to SS their organics.</p>	
4472	Boone, Center for Recycling Research	<p>RENEWABLE GAS (as per definition, #62): This concept also is probably inimical to sound practice. In 2008, Waste Management installed a gas collection system at its Altamont Landfill in Alameda County, and, in 2012, proudly proclaimed that "the plant is now producing up to 13,000 gallons of fuel per day and powering 300 trucks" (Letter from Kerry Kelly, Waste Management's Director of Federal Public Affairs, dated January 6, 2012, in a comment on a proposed waste water treatment project in Iowa [USEPA, Docket ID No EPAHQ- OAR-2011-0827]. What nobody seems to want to discuss is how much methane/CH4 leakage there is in the various materials generation, transmission and consumption activities; ten years ago it was fairly well established that because of the rapid degradation of most food-related organics entering landfills, that about 50% of all the methane made within the bounds of a landfill were in the air and off site long before any gas collection system was brought close to the newly-generating material. This research has been scrupulously avoided by both the USEPA, SWANA and all other advocates of the Landfill Methane Outreach Program (USEPA's program) and its subsidized non-profit, Global Methane Initiative. When the full understanding of methane leakages is reached, the current enthusiasm for anaerobic digestion and other methane-making projects may be greatly tempered. There is clearly nothing in your regulations that will help CalRecycle learn the truth about methane capture and release through its chain of custody and this is unfortunate. The amount of global methane is now rising considerably each year of this worse-than CO2 gas, and the scientific community has as little understanding of the causes of this increase as it did when Charles Keeling first started measuring CO2 levels in the atmosphere in the 1950s.</p>	<p>Comment noted. The commenter is not requesting a change.</p>
4473	Boone, Center for Recycling Research	<p>CONTAMINATED FEEDSTOCKS MAKE LESS VALUABLE COMPOSTS: The regulations seem to work hard to prevent contaminated feedstocks from being made into compost but the very concept of a "high diversion organic waste processing facility" has been invented by the regulators bowing to the wishes of the garbage hauling industry to prevent further inroads into their reason for being. Waste haulers have long championed programs that will disturb their customers the least but which have led over the years to the push for mass-burn incinerators (38 planned for California in 1983; only 3 were built and not likely any will be re-permitted), and now pyrolysis and gasification projects (ideas still looking for markets). Europe's espousal</p>	<p>Comment noted the regulations include requirements designed to reduce contamination.</p>

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		<p>of source separation as the future for organics collections undercuts the garbage industry's enthusiasm for this mixing then demixing. Can we learn from what Europe has experienced over the last twenty years? The project that Shawn Tackitt, a loyal Waste Management employee, bragged about in his testimony to the Alameda County Waste Management Authority in February 2017 would now be discredited by the clarification of how organics will be handled in Europe after 2024. Contaminates feedstocks make contaminated compost (so-called "compost-like organics," the infamous CLO) that will be judged unfit for agricultural applications. The great but largely untold story in northern California has been the redirection of urban organics, both yard and food debris, to developing compost yards that have found ready markets for the ag-ready final products. One day about six years ago I was at Newby Island's compost yard when someone came out of the office and asked our tour guide if he had a 25 ton load of finished compost he could get to a buyer in Marysville (100 miles away) who needed some extra materials to meet a pledge to a local customer. Our guide said yes and I thought, "Holy Cow; they will ship a truckload of finished compost a hundred miles, come back empty, and everybody will make money. This is business." CLO compost will exhaust its markets at roadside applications and mine reclamation projects pretty quickly, but ag market will last as long as we can see.</p>	
4474	Boone, Center for Recycling Research	<p>BIOMASS IS MORE COMPLEX THAN CONSIDERED: People who make money in moving biomass to burn plants love the process, but for anybody who doesn't have a pig in that race, this is a big loss. Burning wood chips to make kilowatts seems dumb to me. Don't forget that. Any conversion of carbon-based materials to kilowatts is a now-neglected technology.</p> <p>Waste Management has signs on its local trucks, "clean burning natural gas. That's so 20<sup>th</sup> century. All the energy for transportation fuels is now expended on turning vehicle propulsion units into electricity-based systems. I have a friend who installs rooftop solar panels for new Tesla buyers; he looks at all the energy being expended on bailing out PG&amp;E and shrugs his shoulders. His customers are decreasingly dependent on the grid and, as battery storage gets more efficient, are more than likely to leave the grid altogether. Lots of people are taking out their land-based phone lines because everything is in the air; one friend had PG&amp;E take out his gas lines because he's all electric (from the roof with a little help from his power line to the grid). As a one-time Sunday School teacher, I was told, "You don't want to be applauding the last kid in your class who believes in the Easter Bunny."</p> <p>"New occasions teach new duties; time makes ancient good uncouth" says a hymn. Burning based biomass management is a dead dog.</p>	Comment noted. The commenter is not requesting a change.
6287	Bowers, M., City of Sunnyvale	<p>Article 3 (Organic Waste Collection Services)  Section 18984.1(d), page 18--Allows, "organic waste to be collected in plastic bags and placed in the green container provided..."  Use of plastic bags should also be allowed for other container types/colors, with the same provisos that follow in the text. For example, to minimize odors and leakage,</p>	Comment noted. Plastic bags may be used in any of the containers. 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.

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		<p>Sunnyvale’s food scraps collection program encourages customers to consider placing food scraps in plastic bags for collection in the yellow-lid food scraps side of our garbage/food split carts. The bags are acceptable to the processor and are screened out in the first process step.</p>	<p>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.</p>
6288	Bowers, M., City of Sunnyvale	<p>Section 18984.5.(c)(1)(C), page 23—At 0.5% of weekly tonnage collected, the sampling requirements remain unnecessarily large and for some streams, this sampling may not be warranted at all. For example, Sunnyvale collects about 15,000 tons per year of yard trimmings. This material comes out of the truck in pristine condition, containing only an occasional water bottle or tennis ball. Yet the requirements stated in this section would require us to obtain representative samples from throughout the City in order to study a 1.4-ton sample of this material every six months (15,000 tons per year / 52 weeks = 288 tons per week. 288 tons x 0.05% = 1.44 tons). We will go to a great deal of work to learn what we already know—our customers give us very clean yard trimmings.</p> <p>We question the utility of this exercise, given the cost and physical space needed to perform the sampling and the safety risks to which sampling workers are exposed. If these requirements must be maintained, we ask that the sample quantity be reduced to represent 0.05% of weekly tonnage collected, an amount sufficient to provide meaningful results. We also ask that CalRecycle provide mechanisms for reducing the frequency (or fully eliminating the requirement) when sample results demonstrate compliance, over time, with a minimum threshold of quality. This practice is used in the landfill gas surface emission monitoring (SEM) requirements, for which the frequency and rigor of the testing are greatly reduced after a landfill demonstrates consistent compliance over time with the very rigorous standards.</p>	<p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
6289	Bowers, M., City of Sunnyvale	<p>Section 18984.5.(c)(1)(D), page 23—We do not understand this section, which includes Items 1, 2, 3 and 4 stating sampling requirements based on various ranges of numbers of generators per route. In the collection industry, a route refers to the work done by one collection vehicle in one work day. Depending on local conditions, labor practices, distance/time to landfill or transfer station, etc. a typical route might include: Rolloff truck (debris boxes, compactors) – 5-20 collections per day Front load commercial/multi-family truck – 100-200 collections per day Single-family residential truck – 500-1200 collections per day We are not aware of any routes with 1,500-7,000 generators (or more). <b>Please clarify the intent of this language and define what is meant by a “route.”</b></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 evaluations 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. However, what constitutes a “hauler route” is dependent upon the designated itinerary or geographical configuration of the jurisdiction’s waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other</p>

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			<p>factors. Typically, the number of generators would be over a week's period. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be over a week's period and divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste. Regarding the question about 1,500-1,700 generators, the jurisdiction can sample from routes that have less generators if that is how the route is defined.</p>
6290	Bowers, M., City of Sunnyvale	<p>Article 12 (Procurement of Recovered Organic Waste Products, page 50)  In our previous letter, the City noted that, at 0.07 tons per resident per day, the proposed per capita purchase requirements would force the City to procure amounts of compost that are an order of magnitude larger than what we currently use, with the alternative of purchasing a biogas-derived fuel product for which no vendor exists and which (if the fuel was available), would require annual vehicle use equivalent to over four million miles of driving.  Following our comments, the second draft, with no explanation, increased the mandate by 14.3%, to 0.08 tons per resident per day! The huge gap between this requirement and the City's actual needs for organics-derived materials indicates a serious flaw in the assumptions underlying this provision. The assumed link between local government's 13% share of GDP and local government's ability to absorb organics-derived products may be faulty. In any case, the requirements presume the availability of fuel products that are not currently available and may not be available for years, if ever. The fuel options also conflict with the City's Climate Action Plan, which envisions electrification of transportation vehicles as part of our move to reduce carbon emissions.  <b>We ask that Article 12 be deleted from this regulatory phase and taken up as a separate, future item when we all have more information on the types and availability of end products made from diverted organics.</b></p>	<p>A specified procurement amount is necessary for jurisdictions to measure compliance with Article 12, which is necessary to achieve the ambitious diversion targets required by SB 1383. The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from the department's Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.  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 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. Regarding renewable gas alternatives "not currently available" to the County, it is important to note that the options available today do not necessarily reflect the options that will be available in the future once the more than 25 million tons of organic waste are diverted and processed. Therefore, revising or deleting these regulations to satisfy current availability of recovered organic waste products and current infrastructure would not be forward-looking nor would it match the intent of Article 12. Regarding putting the burden on other sectors, CalRecycle cannot impose procurement mandates on other state agencies or sectors without the necessary statutory authority, which SB 1383 lacks.  Regarding regulatory 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>

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			<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>
6291	Bowers, M., City of Sunnyvale	<p>We appreciate the deletion of the problematic wording that required analysis of very large, very frequent samples from various process streams. However, the new wording inserted into Article 6.2 in both Section 17409.5.7 (page 119) and Section 20901 (Gray Container Waste Evaluations, page 153) remains problematic. These provisions would require our Sunnyvale Materials Recovery and Transfer Station (SMaRT Station®) transfer/processing facility to conduct 20 evaluations per year for each of the three jurisdictions now delivering waste to the facility, or a total of 60 evaluations per year, and more, if other jurisdictions wish to take advantage of the facility’s innovative processing capabilities. While the sampling methodology itself is far more reasonable than the original proposal, the underlying purpose for requiring this sampling is unclear. The “rates and dates” for organics diversion are measured on a statewide basis, not on a jurisdiction-by-jurisdiction basis.</p>	<p>CalRecycle has revised the Gray Container Waste Evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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. The purpose of the gray container waste evaluations 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>
6292	Bowers, M., City of Sunnyvale	<p>If the purpose of this sampling is to assess progress toward the statewide disposal reduction goal, the jurisdiction-specific 17409.5.7.2 requirements are not needed to assess the statewide disposal reduction level. Sampling and analysis adds cost, complexity and safety risk to operation of a facility—the more samples, the more cost, complexity and risk. But for assessing statewide results vs. the diversion goal, jurisdiction-specific sampling generates no more useful information than if the combined flow was sampled.</p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>
6293	Bowers, M., City of Sunnyvale	<p>In any case, this measurement is proposed at the wrong location to measure what is being disposed. Delivery of gray cart material to a transfer station is not the same as disposal of that material. To measure the composition of what is being disposed, the</p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome</p>

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		<p>measurement must be taken at the point of disposal, i.e. a landfill. In the case of the SMaRT Station, gray cart materials go through post-collection processing that removes organics, and fewer organics are sent to the landfill than are received at the transfer/processing facility. If you want to measure what is disposed, that measurement must be taken at the point of disposal, i.e. the landfill.</p> <p>If the purpose of the sampling is to quantify the percent of organics diversion the City is achieving in isolation analyzing the gray cart contents on arrival at the SMaRT Station does not answer that question. The results would show only one small part of a multi-part system that includes extensive upstream source-separated organics collection—it is the sum of those efforts that is relevant, not one small part. And, as noted above, the organics in the gray cart are targeted for further diversion by the SMaRT Station post-collection sorting processes.</p>	<p>alternative. 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. The purpose of the gray container waste evaluations 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>
6294	Bowers, M., City of Sunnyvale	<p>Thank you for understanding and responding to our previous comments by adding a performance-based compliance option. The proposed wording is a good start, but some additional wording changes are needed to make performance-based a practical option. As described above, one problem is that measurement of the organics content of the “gray container waste” as collected does not account for organics sorted from the gray container by post-collection processing. Combining source-separated and post-collection recovery of organics is the best way (perhaps the only way) to achieve 75% diversion. In light of this, we ask that Section 18998.1 be amended as shown below.</p> <p>See letter for suggested amendment</p>	<p>The waste composition evaluations for the gray container are performed prior to processing. Post processing evaluation does not provide an indication of contamination. Instead, it provides an indication of recovery, which is not the requirement of the section. A jurisdiction that requires generators to place organic waste in the gray container must meet its container contamination monitoring requirements through performing route reviews.</p>
4320	Brazil, City of El Cerrito	<p>I am just wondering is hair and nails included for composting with this legislation? I imagine human hair and fingernails to be problematic due to chemicals (hair color, perms, nail polish), but pet hair that has been cleaned and nails clipped, no flea treatments, no nail polish, is this included?</p> <p>Will this type of material be required under this law? I ask because we have a Petco that performs grooming services and it seems like a prime compostable material.</p>	<p>Whether these materials are accepted in organic waste recycling containers will depend on the type of organic waste collection service established by the jurisdiction.</p>
4321	Brazil, City of El Cerrito	<p>I am working with Petco and they have some interesting items that I wanted to confirm can be considered compost.</p> <p>I checked with our commercial composting facility and got some feedback from them. Given SB 1383, I just wanted to clarify since Petco is somewhat specialized by comparison.</p> <p>If the law does not specify, how should we handle the following materials to keep them out of the landfill?</p> <p>Cut claw nails – unpainted – grooming services  Cut hair – uncolored – grooming services  Shed snake skin and lizard skin  Deceased pets (fish, snakes, gerbils etc.)</p> <p>Also, just to confirm, cage dressings can't be composted because it may include pet fecal matter and/or urine, correct?</p>	<p>Whether these materials are accepted in organic waste recycling containers will depend on the type of organic waste collection service established by the jurisdiction.</p>

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4348	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Wood waste is a large percentage of our organic waste stream, much larger than edible food waste. According to CalRecycle Talking Points on SB 1383 ( <a href="https://www.calrecycle.ca.gov/organics/slcp/education">https://www.calrecycle.ca.gov/organics/slcp/education</a> ) edible food waste consists of an undetermined amount of the 18% of food waste in California. According to the same talking points, lumber alone consists of 12% of all waste in California, and an undetermined amount of other recoverable wood products most likely fall into the 19% of general organic waste category and mixed materials wood waste (cabinets, furniture & other engineered wood products) would fall under 34% non-organic. The potential for recovery here is likely much greater than that of edible food waste but requires attention. Therefore, CalRecycle should (at the very least) give equal weight to wood waste recovery as it does to edible food recovery. Wood and lumber are included in your definition of organic waste in Section 18982 Definitions (46). Is there a particular reason why they not addressed in any consequential manner by the rules?	Comment noted. Wood 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.
4349	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Members of our Bay Area Deconstruction Workgroup attended the May 2018 CalRecycle hearing, commented, and received no response to their comments on wood waste, so we are respectfully asking for a response to those comments and those submitted below to changes in the current SB 1383 rules in "green".	Comment noted, the letter did not include any referenced comments in green. This comment is not germane to the text or documents presented in the comment period this comment was submitted in.
4350	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Just as "food donation" is the highest and best use of food to feed hungry people and reduce greenhouse gas emissions, deconstruction and wood reuse is the highest and best use of wood as it directly extends the life of organic materials, reduces lifecycle greenhouse gas impacts by reducing the demand for virgin timber and associated GHG impacts, and creates local jobs. The new proposed language of Section 17409.5.6 (1) exempting Construction and Demolition Debris (including lumber) for measurements under SB 1383 is counter to the specific legislative intent to include lumber and wood as covered materials. There is so much more the wood recovery industries could comment on if CalRecycle takes steps to address this large waste stream in the SB 1383 Rulemaking.	Comment noted. Wood 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.
4351	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Section 18982. Definitions (14.5) <b>ADD: (C) The facility is a "building materials or wood reuse facility as defined in [TBD – see below]."</b> a. <b>ADD New Related Proposed Definitions tied to comment on new language under 14.5:</b> i. <b>(X) "Wood Recovery" is any activity used to divert wood products from the landfill, including, but not limited to deconstruction, used furniture collection and distribution, used furniture reupholstery, building materials reuse retail or wholesale facility, wood recovery for remanufacturing into usable wood products.</b> ii. <b>(XX) "Building materials deconstruction or wood reuse" means actions to recover, collect and distribute wood materials for reuse that would otherwise be disposed. This may include deconstruction activities for whole buildings and renovations as well as recovery of wood building materials from new construction sites.</b>	Comment noted. Wood 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. Comment noted. It is not necessary to define terms, or amend the definition of terms in the regulations to include terms that are not specifically used in the regulations, or are commonly understood.



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		<p>iii. (XXX) <b>“Building materials deconstruction or wood reuse facility” means an entity that engages in the systematic dismantling of buildings, collection or receipt of reclaimed wood from buildings or structures and distributes that used wood for reuse through entities, including, but not limited to jobsite reuse, nonprofit charitable organizations, institutional, governmental, commercial, or industrial organizations.</b></p> <p>iv. (XXXX) <b>“Building materials deconstruction service” means a person or entity that dismantles by hand and collects reusable lumber and wood products from buildings or structures for reuse.</b></p>	
4352	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Section 18982. Definitions (14.5) b. (69) <b>“Source separated organic waste” means organic waste that is placed in a 14 container that is specifically intended for the separate collection of organic waste by the generator COMMENT ADD “or is building materials/wood deconstructed or collected via self haul or designated container specifically for material reuse, or wood products collected for reuse (ie.furniture).”</b>	Comment noted. Wood 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.
4353	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	<b>RETITLE Article 8 . “Jurisdiction Wood Waste Recovery Programs, Wood Generators, and Wood Recovery.”</b> Wood waste consists of more than just lumber. Treated and Mixed materials wood waste consists of everything from kitchen cabinets to furniture. Wood should not be assumed to be just C&D waste, and should be addressed beyond the very limited scope of CalGreen. This section needs to be flushed out to address this large waste stream, and research should be conducted to determine just how much wood truly is in our waste stream.	CalRecycle already included reusable wood recovery in the education and outreach requirements in Article 4. CalRecycle can separately pursue working with the Building and Standards Commission to incorporate additional reuse policies in the building code as appropriate. However, CalRecycle cannot use these regulations to make changes to the requirements of other state agencies that pertain to building construction and deconstruction.
4354	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	If #2 above is not acceptable (See comment 4353) , <b>ADD under Article 8, “Wood Recovery shall be incorporated into CalGreen with specific targets (TBD) with diversion goals similar to the food waste recovery 20% increases.”</b> Other Wood waste (furniture, cabinetry etc) needs to be addressed here as well.	CalRecycle already included reusable wood recovery in the education and outreach requirements in Article 4. CalRecycle can separately pursue working with the Building and Standards Commission to incorporate additional reuse policies in the building code as appropriate. However, CalRecycle cannot use these regulations to make changes to the requirements of other state agencies that pertain to building construction and deconstruction.
4355	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	<b>ADD/REPLACE Article 9 with “ Wood Waste Recovery Capacity Planning”</b> - create a new section here detailing how this will be done with stakeholder input. Create a deadline for this Article to be completed and create a rule that it will not impede the remainder of the organic waste rules related to food recovery and composting.	CalRecycle already included reusable wood recovery in the education and outreach requirements in Article 4. CalRecycle can separately pursue working with the Building and Standards Commission to incorporate additional reuse policies in the building code as appropriate. However, CalRecycle cannot use these regulations to make changes to the requirements of other state agencies that pertain to building construction and deconstruction.
4356	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Article 11: Organic Waste <b>DELETE (Recycling)</b> and <b>REPLACE with “ Recovery” Capacity Planning</b>	The term recycling is used in this specific article to align with existing capacity planning terminology codified by AB 876 (2016). A change to the regulatory text is not necessary.
4357	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Article 12: Procurement To increase the viability of the reclaimed wood industry CalRecycle needs to promote government procurement from this industry. To do so, <b>ADD under Section 18993.1. (f): (4) Reclaimed wood or products made from wood diverted from the landfill.</b>	The commenter’s suggestion to include “reclaimed wood” lacks the landfill diversion verification and conversion factor(s) necessary for inclusion in Article 12. While CalRecycle appreciates the comment’s focus on diverting wood from the landfill, “reclaimed wood” or “products made from wood diverted from the landfill” is too broad and unspecific, and it would be difficult for CalRecycle to enforce.

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4358	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Section 17409.5.6. Source Separated Organic Waste Handling. <b>ADD 7 (C) Source separated wood waste removed from construction sites, workplaces or residences should be:</b> <b>1. add specific language here. Language to be determined through stakeholder meetings.</b>	A change to the regulatory text is not necessary. Section 17409.5.6 (a)(2) was amended to add Subdivision (a)(2) based on comments received during the 45-day comment period asking for clarification regarding the measurements for construction and demolition debris that are kept separate from other waste stream. The change specifies that construction and demolition debris kept separate from other waste stream shall not be included in the measurement sampling.
4359	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	CALGreen, the only reference for diverting building-related wood in the regulations (Article 8), requires 65% diversion which we know is being met with heavier inert materials (concrete, metals, tile/masonry, and asphalt) and is not keeping organic waste or C&D wood out of landfills/ADC – see City of San Francisco data: <a href="http://www.stopwaste.org/sites/default/files/181213%20BMM%20StopWaste%20website.pdf">http://www.stopwaste.org/sites/default/files/181213%20BMM%20StopWaste%20website.pdf</a>	Thank you for the comment. The comment is not requesting a language change.
4360	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Request CalRecycle add in building-related wood diversion requirements, and specifically the highest and best use of building related wood materials – reuse – throughout the final regulation.	Comment noted. Wood 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.
4361	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	California’s wood GHG emissions factor is based on biomass and needs to be updated to reflect the significantly greater benefits of wood reuse and recycling.	Comment noted. The commenter is not requesting a change to the regulation.
4362	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	State and jurisdictional lumber and wood reuse procurement requirements, including changes to CALGreen similar to requirements in Oregon’s building code to allow the use of reclaimed lumber should be addressed.	Comment noted. Wood 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. Additionally, a change to the regulatory text is not necessary because CalRecycle already included reusable wood recovery in the education and outreach requirements in Article 4. CalRecycle cannot use these regulations to make changes to the requirements of other state agencies that pertain to building construction and deconstruction. CalRecycle will separately pursue working with the Building and Standards Commission to, for example, amend the California Residential Code to allow the use of salvage lumber, amend CALGreen to require 20% reuse, and require the diversion of demolition derived wood products.
4363	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Funding to research data on wood waste recovery, wood waste recovery methodology and market support should be provided.	Comment noted. The commenter is not requesting a change to the regulation.
4364	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder; the away station; Connell, Build Reuse	Funding to educate consumers, businesses, and contractors on the benefits and processes associated with wood waste recovery should be provided.	Comment noted. The commenter is not requesting a change to the regulation.
4365	Breslin, Reuse Alliance; Tai, Greenlynx; Bachelder;	Create guidelines and funding for jurisdictions to support and regulate wood waste recovery	Comment noted. Wood is subject to organic waste collection requirements for commercial and residential generators, further the regulations require jurisdictions to enforce CALGreen standards

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	the away station; Connell, Build Reuse		for the recovery of construction and demolition waste which includes wood waste. CalRecycle disagrees that wood is not addressed in a consequential manner.
1059	Brown, Kourtnii, California Alliance for Community Composting Orsi, Janelle, Sustainable Economies Law Center	<p>We propose the disclaimer language similar to §18984.9 and §18984.12 in Article 3, §18985.1 in Article 4, and §18986.1 and §18986.2 in Article 5 <b>be included as provisions in these sections of Article 17:</b></p> <p>§ 18998.1 Requirements for Performance-Based Source Separated Collection Service</p> <p>(b) Jurisdictions that delegate collection services to a designee shall include in their contracts or agreements with the designee a requirement that all haulers transport the source separated organic waste collection stream collected from generators subject to the authority of a jurisdiction to a designated source separated organic waste facility, <b>except for:</b></p> <p><b>(1) A hauler that is consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with Section 41950 of the Public Resources Code, transporting source separated organic waste to a community composting site.</b></p>	Comment noted. Language relevant to haulers was added to Article 17 as requested. Language clarifying that nothing allows a jurisdiction to prohibit generators from reducing waste, using community compost etc. was not added. This language was not necessary to add in this article as there is nothing in the article that implies a jurisdiction could take the actions the commenter is requesting the Department prohibit.
1060	Brown, Kourtnii, California Alliance for Community Composting Orsi, Janelle, Sustainable Economies Law Center	<p>We propose the disclaimer language similar to §18984.9 and §18984.12 in Article 3, §18985.1 in Article 4, and §18986.1 and §18986.2 in Article 5 <b>be included as provisions in these sections of Article 17:</b></p> <p>§ 18998.2 Compliance Exceptions</p> <p><b>Add (b) Nothing in this section allows a jurisdiction to:</b></p> <p>(1) prohibit a generator from preventing or reducing waste generation, managing organic waste on-site, or using a community composting site, or</p> <p>(2) prohibit compliance 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.</p>	Comment noted. Language relevant to haulers was added to Article 17 as requested. Language clarifying that nothing allows a jurisdiction to prohibit generators from reducing waste, using community compost etc. was not added. This language was not necessary to add in this article as there is nothing in the article that implies a jurisdiction could take the actions the commenter is requesting the Department prohibit.
1061	Brown, Kourtnii, California Alliance for Community Composting Orsi, Janelle, Sustainable Economies Law Center	<p><b>Everywhere Article 3 allows plastic bags to collect organic waste and to be placed in the green container, please change to:</b></p> <p>“A jurisdiction may allow organic waste to be collected in <b>compostable plastic bags that meet the ASTM D6400 standard for compostability</b> and placed in the green container, <b>and the contents of the green containers are transported to Compostable Material Handling Operations or Facilities or In-vessel Digestion Operations or Facilities that have provided written notification to the jurisdiction that the facility can process and recover that material,</b> or provided that the allowance of <b>compostable plastic bags</b> does not inhibit the ability of the jurisdiction to comply with the requirements of Sections <b>18984.1, 18984.2, and 18984.5,</b> and the facilities that recover source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating that the facility can <b>either process or remove compostable plastic bags</b> when it recovers source separated organic waste.”</p>	<p>Comment noted. A change to the text is not necessary as the regulations adequately address the use of plastic bags used in the green containers. 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.</p> <p>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).</p> <p>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.</p>

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1068	Burke, Jennifer, City of Santa Rosa Water	It is imperative that CalRecycle maintain language to ensure that land application remains a viable method of disposition of biosolids by precluding local ordinances from prohibiting land application, especially since implementation of SB 1383 will prohibit biosolids from being landfilled. The preclusion of both methods is unsustainable and will likely force municipalities to travel many miles, potentially out of state, to land apply biosolids at suitable locations, which deprives local farmers of this resource and increases operational costs and greenhouse gas emissions. It is critical that the entire state be open for land application when done pursuant to federal and state regulations. As such, we respectfully urge CalRecycle to maintain language as currently set forth in Article 9, which precludes local ordinance from impeding land application.	<p>Comment noted. CalRecycle updated the proposed regulatory text in response to concerns raised by other stakeholders about conflicts with local policies or ordinances. Section 18990.1 (b)(1) now reads: "(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: (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter."</p> <p>This section of the regulatory text was updated to reflect stakeholder feedback to allow for reasonable local regulation of organic waste recovery activities such as land application of biosolids. For example, local jurisdictions may have legitimate public health and safety reasons to place time and manner restrictions on the land application of biosolids and this language allows for that. The intent of CalRecycle was to place a nexus between any local restriction and public health, safety, and environmental concerns such that the local requirement is closely tailored to deal with a particular public health, safety or environmental issue and doesn't constitute an overbroad, de facto prohibition.</p>
6043	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Overall, we urge CalRecycle to ensure that the implementation be coordinated and standardized across jurisdictions within counties, whether through the creation of Joint Powers Agreements or other mechanisms to improve communication, reduce burdens on recovery organizations, and ultimately improve compliance. The emergency food network is county-based, spanning cities and unincorporated areas, and for the diversion goal to be a success, SB 1383 implementation must align with this and not set up contradictory or competing demands on the network of non-profit food recovery organizations already struggling to recover and distribute food to Californians in need.	It is inherent in the edible food recovery capacity planning requirements that counties in coordination with jurisdictions and regional agencies located within the county consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded edible food recovery capacity. This coordination at the county level is critical in order to identify existing edible food recovery capacity, understand capacity needs and edible food recovery funding needs, and to help jurisdictions and commercial edible food generators comply with SB 1383's edible food recovery regulations.
6044	Cheyne A., California Association of Food Banks	CalRecycle should offer recommendations and guidance to jurisdictions on how to best align with the county-based structure of the emergency food system to minimize regulatory burden and maximize the ability of this network to help achieve the overall diversion goal. Successful partnerships with every food bank will require activities that span jurisdictional boundaries.	It is inherent in the edible food recovery capacity planning requirements that counties in coordination with jurisdictions and regional agencies located within the county consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded edible food recovery capacity. This coordination at the county level is critical in order to identify existing edible food recovery capacity, understand capacity needs and edible food recovery funding needs, and to help jurisdictions and commercial edible food generators comply with SB 1383's edible food recovery regulations.
6045	Cheyne A., California Association of Food Banks; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties	In 18992.2 we strongly support the language as is, to have the capacity planning process be led by counties. This will help ensure that any gaps and needs identified will support proper capacity expansion of the emergency food recovery system.	Thank you for the comment. The comment is in support of current language.

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6046	Cheyne A., California Association of Food Banks; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties	<b>In 18991.5 (a) (2) we urge the inclusion of language clarifying that food recovery organizations must only keep one set of donation records available to all jurisdictions.</b> This is vital to avoid significant confusion in record-keeping and reporting across the many jurisdictional boundaries that food banks and other food recovery organizations cross during their operations. This is also consistent with the aim of emergency food recovery organization’s record keeping as primarily a check to confirm donation by generators, not as a measure of where the food was ultimately distributed as that is outside the scope of the mandate and again would create significant burden.	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 information to one jurisdiction. Specifically, they are required to report the total pounds collected (from commercial edible food generators) in the previous calendar year to one jurisdiction. That is, the jurisdiction that their primary address is physically located in. They are not required to report to multiple jurisdictions.
6047	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Perhaps the most fundamental component of achieving the diversion goal is defining edible food. We appreciate that CalRecycle has taken our request to strike ‘unsold and unserved,’ but we urge in the strongest terms that the definition should restore prior language: “Edible food” means food intended for human consumption that is fit to be consumed... <b>even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.</b> Not only does this language provide helpful clarification, removing it is also potentially harmful: if deleted, it could potentially discourage donations of blemished but safe food which is often the types of produce and other healthy items that food banks receive, reducing food access and working against the diversion goal. The definition of edible food benefits all stakeholders from the consistency of incorporating the nationally established definition of food eligible for donation by the Bill Emerson Good Samaritan Food Donation Act & mirrored in AB 1219 (Eggman, 2017), which states: “‘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.”	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.
6048	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	We again request that CalRecycle establish in the regulations the need to emphasize diversion of edible food to people experiencing hunger. We reiterate 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 services 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.	Nothing in SB 1383’s statute specifies that recovered edible food should first be provided at no cost to people in need. 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.

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6049	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Food Bank	Across several issues, we reiterate the serious financial and capacity challenges that SB 1383 raises for food recovery organizations, and as such we encourage CalRecycle to conduct an impact assessment on food recovery organizations. For example, food banks will be wondering: Is the additional food recovery from this equal to, less than, or more than the additional cost on food banks to meet the mandated requirements?	The regulations include language 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 food generator." To clarify, food recovery organizations and services are not mandated to recover food nor are they mandated to enter into contracts or written agreements with commercial edible food generators. If their costs to recover food or work with new generators are too great, then they do not have to enter into a food recovery contract or written agreement with them. Adding a requirement to Article 13 requiring jurisdictions to perform an impact assessment on food recovery organizations and services is not reasonable and would be overly burdensome for jurisdictions as they are already required to assess their 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. For these reasons, changes to the regulatory text were not made.
6050	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Food Bank	Some issues to be aware of include: Food recovery organizations are already operating on tight budgets, and we ask CalRecycle to encourage jurisdictions to develop and allow funding streams that will support food recovery organizations in recovering more edible food, as well as enable generators and food recovery organizations to establish their own partnerships, including cost-sharing agreements.	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 food recovery program and to help fund the food recovery organizations and services operating in their jurisdiction. CalRecycle also provided information in the FSOR to clarify that the 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. CalRecycle would also like to note that CalRecycle has developed a model food recovery contract/written agreement that includes cost sharing provisions. The model food recovery contract/written is not required to be used, but can be used and customized by food recovery organizations, food recovery services, and commercial edible food generators.
6051	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Some issues to be aware of include: It is imperative that CalRecycle and jurisdictions exempt non-profit charitable organizations from fees and penalties related to record-keeping if it is maintained in good faith, as many records will be kept by volunteers.	The only recordkeeping requirements for food recovery organizations and services are established in Section 18991.5. This section establishes minimum recordkeeping requirements for food recovery organizations and services that elect to establish a contract or written agreement with a commercial edible food generator pursuant to Section 18991.3 (b). A food recovery organization or service 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. 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. A food recovery organization or service, 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. With respect to fines issued by CalRecycle; CalRecycle's authority to take enforcement against an entity subject to a jurisdiction's enforcement authority (e.g. food

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			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.
6052	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Food Bank	Some issues to be aware of include: It is similarly imperative that CalRecycle and jurisdictions exempt non-profit charitable organizations from fees or penalties associated with unavoidable Commercial Organics Recycling and compost incurred during food recovery efforts. 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. We suggest that the capacity planning process in Article 11 specifically reflect this dynamic, of food recovery organizations needing additional resources to manage the increased flow of recovered edible food, not all of which will be possible to distribute to people in need due to food loss within the food recovery system.	Nothing in SB 1383’s regulations requires a food recovery organization or a food recovery service to recover edible food from a commercial edible food generator. Section 18990.2 of the regulations specifies the following, “(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 a food recovery organization or service to establish a contract or written agreement with a commercial edible food generator. It is at the discretion of individual food recovery organizations and services to determine if it is appropriate or feasible for them to establish such contracts or written agreements. Food recovery organizations and services should consider any potential increase in costs associated with recycling organic waste when deciding whether or not to enter into a contract or written agreement with a commercial edible food generator.
6053	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Finally, we urge CalRecycle to restore the 6 ton annual threshold to establish a floor below which small food recovery organizations (not services) would be exempt from record keeping, reporting and penalties. In consultation with food banks across the state, this would exempt only a few organizations that are most likely to be all-volunteer and operating on zero budgets, and therefore most vulnerable to the burden of record keeping becoming a barrier and leading to possible closure. Such local agencies are often already precarious due to aging volunteers, and at the 6 ton threshold the least necessary for compliance with the diversion goal but often the most important to food access in communities. If not this, then allow jurisdictions to establish a 6 ton threshold according to local needs, which would introduce a small amount of inconsistency but avoid vital pathways of food access for organizations that cannot reasonably comply.	<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 or written agreement with a food recovery organization that collects less than 6 tons per year, and also claim that they donate the maximum amount of their edible food that would otherwise be disposed to that food recovery organization. Because the food recovery organization that the generator claims they contract with recovers less than 6 tons of food per year, the jurisdiction would not be able to 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 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>
6054	Cheyne A., California Association of Food	Article 1: (a) Definitions (18), the definition of edible food: “... means food intended for human consumption that is fit to be consumed.”	In an early draft of the proposed regulations edible food was defined as:

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	Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Thank you for striking “unserved and unsold” to prevent gaming of the system.	<p>“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.</p>
6055	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	We request the restoration of the language that was deleted from the January 18th draft, “... <b>even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.</b> ” Not only do we find this language to provide helpful clarification, removing it is potentially harmful: if deleted, it could potentially discourage donations of blemished but safe food which is often the types of produce and other healthy items that food banks receive, reducing food access and working against the diversion goal.	<p>In an early draft of the proposed regulations edible food was defined as:</p> <p>“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.</p>



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6056	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<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>Thank you for the addition of this language, we are in strong support.</p>	A change to the regulatory text was not necessary because this comment is in support of language that was added to the definition of “edible food.”
6057	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	We request the addition of a third sub-bullet here, which would read: <b>“(C) Nothing in this definition shall preclude such organizations from following internal standards and requirements for acceptance related to nutrition or quality when recovered by those organizations.”</b>	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 specify that 20% of healthy or nutritious foods 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 and mission of many food recovery organizations and food recovery services is to reduce food insecurity in their communities by recovering 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.
6058	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<p>Article 1: (a) Definitions (24), the definition of food recovery: “... means actions to collect and distribute food for human consumption which otherwise would be disposed.”</p> <p>We suggest to add that the definition conform to the definition in (25) of a food recovery organization: “...means actions to collect and distribute food for human consumption which otherwise would be disposed, <b>where recovered food is first intended for no-cost charitable distribution to communities in need.</b>”</p> <p>Alternatively, we ask CalRecycle to adopt this language: “... <b>where recovered food follows the EPA Food Recovery Hierarchy pyramid.</b>” This highlights “Feed Hungry People – Donate extra food to food banks, soup kitchens, and shelters” as the primary strategy after “Source Reduction.”</p>	A change to the regulatory text was not made because nothing in SB 1383’s statute specifies that recovered edible food should first be intended for no-cost charitable distribution to communities in need. 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. 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. For this reason, the definition of food recovery was not revised.
6059	Cheyne A., California Association of Food Banks; Polka, D., Los	Article 1: (a) Definitions (25), the definition of food recovery organization, and (26), the definition of food recovery service:	A change to the regulatory text was not made for the following reason. Nothing in SB 1383’s statute specifies that recovered edible food should first be provided at no cost to people in need. The statutory goal is that no less than 20% of currently disposed edible food be recovered for

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	Angeles Regional Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Food Bank	<b>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.</b> 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).	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 that is established by SB 1383.
6060	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Article 1: Definition (76), the definition of wholesale food vendor: “... means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.” <b>We request the addition of “for-profit” in the definition, such that it would read: “...means a for-profit business or establishment...”</b> Under no circumstances shall a non-profit charitable organization be considered a ‘wholesale food vendor’.	A change to the regulatory text was not necessary because it is already specified in the definition of “commercial edible food generator” that food recovery organizations and food recovery services are not considered commercial edible food generators and therefore are not subject to the commercial edible food generator requirements of SB 1383. Therefore, for the purposes of this regulation, non-profit charitable food recovery organizations and food recovery services are not wholesale food vendors.
6061	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Article 4: Section 18985.2. (a)(1)(E): Thank you for striking “hours of operation.” Thank you for the addition of (D) about the types of food the food recovery service or organization can accept.	A change to the regulatory text was not necessary because this comment is in support of two previous revisions that were made to the regulatory text.
6062	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties;	Article 4: Section 18985.2. (b)(1): Thank you for addition of sub-bullet (D) Please add an additional sub-bullet to read: <b>“(E) Information that makes it clear they must have an agreement (such as an MOU) with a food recovery organization prior to any deliveries or drop-offs.”</b>	A change to the regulatory text was not necessary because the regulations already require commercial edible food generators to comply with the commercial edible food generator requirements through having a contract or written agreement with food recovery organizations or food recovery services. As a result of this requirement, commercial edible food generators can only self-haul edible food to a food recovery organization if they have a contract or written agreement that specifies that they are permitted to self-haul edible food during pre-established delivery or drop off times. Although a change to the regulatory text was not made, CalRecycle provided an explanation in the FSOR in response to this comment. The explanation in the FSOR describes how the requirement for commercial edible food generators to have a contract or written agreement with a food

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	Davidson, M., San Francisco-Marin Fo		<p>recovery organization or service, provides protections for food recovery organizations and services, and that the contract or written agreement should include designated delivery and drop off times to help protect food recovery organizations and services from donation dumping. CalRecycle would also like to emphasize that a commercial edible food generator should never self-haul their edible food to a food recovery organization without having the consent of the organization and a contract or written agreement with that organization in-place. Furthermore, the contract or written agreement must specify that edible food can be self-hauled. Edible food that is self-hauled pursuant to a contract or written agreement should only be self-hauled during the drop off and delivery times specified in the contract or written agreement by the food recovery organization. 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. CalRecycle would also like to note that the Department developed a model food recovery agreement that can be used and customized by food recovery organizations and food recovery services. The model food recovery agreement includes language to help ensure that donation dumping and unexpected deliveries and drop-offs will not occur.</p>
6063	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Food Bank	<p>Article 9: Section 18990.2. Edible Food Recovery Standards and Policies  “(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.”  We ask for clarification on how coordination will be ensured to prevent duplicate regulation, in light of the passage of AB 2178 (Limon, 2018). Under this new law, 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.</p>	<p>The commenter did not provide additional information to identify if any of the regulations in SB 1383 are the same as the regulation requirements of AB 2178. Additional context needs to be provided before any changes to the regulations could be considered.</p>
6064	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties;	<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.”  Again, we appreciate CalRecycle’s addition of this language, and insist that it remain included.</p>	<p>Comment noted. A revision to the regulatory text is not necessary as this comment is expressing opinion and not recommending a change in the language. The language of the current version of the regulations has changed from that quoted in the comment; however, the substance remains the same. The language has been revised to incorporate the requirements of the California Good Samaritan Food Donation Act of 2017 and the requirement to have an agreement in place with food recovery organizations remains.</p>

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6065	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<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.”</p> <p>We request the addition of the following language: <b>“Under no circumstances should jurisdictions charge fees or assessments to food banks or other non-profit food recovery organizations.”</b> 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>The commenter requested that the following language be added to the regulations: “Under no circumstances should jurisdictions charge fees or assessments to food banks or other non-profit food recovery organizations.” This language was not added to the regulations because CalRecycle cannot identify a specific entity that jurisdictions cannot charge fees to, as this raises an authority issue.</p>
6066	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<p>Article 10: Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program</p> <p>“(a)(2): A list of edible food recovery organizations in the jurisdiction and their edible food recovery capacity.”</p> <p>We request the addition of the following language: <b>“...and how to contact them to put in place a contract or agreement for food recovery.”</b></p>	<p>The language requested in this comment does not pertain to Section 18991.2 Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program. 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 food recovery service that is listed:</p> <ul style="list-style-type: none"> <li>(A) Name and physical address.</li> <li>(B) Contact information.</li> <li>(C) Collection service area.</li> <li>(D) An indication of types of food the food recovery service or organization can accept for food recovery.</li> </ul> <p>The regulations already include the requirement that the list shall 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 would like to include ‘information on how to contact the food recovery organization to establish a contract or written agreement for food recovery’ on 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>
6067	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and	<p>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 EHD’s to obtain records of the relevant information to avoid duplicate efforts with food banks.</p>	<p>It is unclear what the commenter’s concern is 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 vague and additional context needed to be provided before any changes to the regulations could be considered.</p>

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	San Mateo Counties; Davidson, M., San Francisco-Marin Food Bank		
6068	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<p>Article 10: Section 18991.3. Commercial Edible Food generators</p> <p>“(b)(1) Contracting with food recovery organizations or services that will collect their edible food for food recovery.”</p> <p>“(b)(2) Self-hauling edible food to a food recovery organization that will accept the edible food for food recovery.”</p> <p>“(A) Food that is self-hauled pursuant to this section shall be done with the consent of the food recovery organization.”</p> <p>We are in strong support of this newly added sub-bullet (A), and thank you for its inclusion.</p>	A change to the regulatory text was not necessary because this comment is in support of one of the regulatory requirements.
6069	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<b>We request the addition of an additional bullet (b) (4) to read: “It is permissible for food recovery organizations to negotiate cost sharing agreements as part of their contractual agreements or MOU's with commercial generators.”</b>	CalRecycle provided information in the FSOR to clarify that the 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. CalRecycle would also like to note that CalRecycle is developing a model food recovery agreement that includes cost sharing provisions. The model food recovery agreement is not required to be used, but can be used and customized by food recovery organizations, food recovery services, and commercial edible food generators.
6070	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<p>Article 10: Section 18991.4. Record Keeping Requirements For Commercial Edible Food Generators</p> <p>“(a) A commercial edible food generator subject to the requirements in this article shall keep a record that includes the following:</p> <p>(3)(C) The established frequency that food will be collected or transported.”</p> <p><b>We request the addition of the following language:</b> “...the established frequency that food will be collected or transported, <b>with the exception of ‘on call’ or ‘one-time’ donors.</b>” 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.</p>	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, the majority of commercial edible food generators will not be infrequent donors. They will have edible food available to be recovered 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 year, 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 critical, 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.

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6071	Cheyne A., California Association of Food Banks	<p>“(3)(D) The quantity of food collected or transported to a service or organization for food recovery. Quantity shall be measured in pounds recovered per month.”</p> <ul style="list-style-type: none"> <li>• We thank CalRecycle for deleting (D)(2), in favor of maintaining a single metric – pounds – to avoid the confusion of multiple measures and creating the need to translate/reconcile across different metrics.</li> </ul>	This comment is in support of a change that was made to the regulatory text after the 45-day formal comment period.
6072	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	<p>Article 10: Section 18991.5. Edible Food Recovery Services and Organizations</p> <p>o “(a) A food recovery organization or service that collects or receives edible food directly from commercial edible food generators shall maintain records specified in this section:”</p> <p><b>We strongly urge CalRecycle to restore the 6-ton threshold for reporting, so as to read:</b> “... that collects or receives <b>6-tons or more of</b> edible food...” From our network of 41 food banks, we have overwhelmingly heard that an even larger threshold of 12-tons would be preferable. Small food recovery organizations are most likely to be all volunteer-run, with very little budget for operations and record keeping. An annual threshold of 6-tons annually is a reasonable compromise that will only exempt the smallest and most vulnerable organizations.</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 or written agreement with a food recovery organization that collects less than 6 tons per year, and also claim that they donate the maximum amount of their edible food that would otherwise be disposed to that food recovery organization. Because the food recovery organization that the generator claims they contract with recovers less than 6 tons of food per year, the jurisdiction would not be able to 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 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>
6073	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Davidson, M., San Francisco-Marin Food Bank	<p>Alternatively, we request CalRecycle to allow jurisdictions to set a threshold up to 6-tons a year or exempt groups with hardships. This may introduce some inconsistency but would provide meaningful flexibility to ensure all groups who are able can contribute to the diversion goal.</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 or written agreement with a food recovery organization that collects less than 6 tons per year, and also claim that they donate the maximum amount of their edible food that would otherwise be disposed to that food recovery organization. Because the food recovery organization that the generator claims they contract with recovers less than 6 tons of food per year, the jurisdiction would not be able to 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>

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			Removing the 6-ton threshold was also critical for measurement purposes. If the 6-ton threshold remained in the regulations, jurisdictions would not receive a complete data set of total pounds recovered from commercial edible food generators in the previous calendar year. A complete data set is critical in order for jurisdictions to report accurate data to CalRecycle so that CalRecycle can measure the state's progress toward achieving the 20% 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.
6074	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	We reiterate that jurisdictions may request to review & audit food recovery donation records if there is a 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.
6075	Cheyne A., California Association of Food Banks	<p>“(a) (2)“A food recovery organization shall maintain the following records. <del>a record of</del> <b>A food recovery organization that distributes across multiple jurisdictions, such as a county-wide food bank, shall only be required to maintain one standard set of records to be available to all jurisdictions in its service area:”</b></p> <p>We appreciate the delineation of food recovery organizations in (a)(2), and we urge the inclusion of this language to avoid significant confusion in record-keeping and reporting across the many jurisdictional boundaries that food banks and other food recovery organizations cross during their operations. This is also consistent with the aim of emergency food recovery organization's record keeping as primarily a check to confirm donation by generators, not as a measure of where the food was ultimately distributed as that is outside the scope of the mandate and again would create significant burden.</p>	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 maintain records and report information to one jurisdiction. Specifically, they are required to report the total pounds collected (from commercial edible food generators) in the previous calendar year to one jurisdiction. That is, the jurisdiction that their primary address is physically located in. They are not required to report to multiple jurisdictions.
6076	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Davidson, M., San Francisco-Marin Food Bank	Article 11: Section 18992.2. Edible food recovery Capacity We thank CalRecycle for the addition of (b) and strongly support its inclusion.	Thank you for the comment. The comment is in support of current language.

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6077	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Additionally, it is important to note that 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. We suggest that the capacity planning process specifically reflect this dynamic, of food recovery organizations needing additional resources to manage the increased flow of recovered edible food, not all of which will be possible to distribute to people in need due to food loss within the food recovery system.	Comment noted, CalRecycle agrees and Sections 18991.1(a)(4) and 18992.2(c)(1)(A)(1) require jurisdictions to plan for sufficient funding for edible food recovery infrastructure.
6078	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Article 13: Section 18994.2. Jurisdiction Annual Reporting “(h)(2) The number of food recovery services and organizations located and operating within the jurisdiction that serve commercial food generators.” As with our recommendation in Section 18991.5, <b>we urge CalRecycle to restore the 6-ton threshold:</b> “... within the jurisdiction <b>that collect or receive more than 6 tons of food per year.</b> ” <b>We similarly ask for this addition in (h)(2)(A).</b>	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 or written agreement with a food recovery organization that collects less than 6 tons per year, and also claim that they donate the maximum amount of their edible food that would otherwise be disposed to that food recovery organization. Because the food recovery organization that the generator claims they contract with recovers less than 6 tons of food per year, the jurisdiction would not be able to 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 directly from commercial edible food generators, pursuant to Section 18991.3 (b) to maintain records of the food they receive from those generators. Removing the 6-ton threshold was also critical for measurement purposes. If the 6-ton threshold remained in the regulations, jurisdictions would not receive a complete data set of total pounds recovered from commercial edible food generators in the previous calendar year. A complete data set is critical in order for jurisdictions to report accurate data to CalRecycle so that CalRecycle can measure the state’s progress toward achieving the 20% 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.
6079	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties;	“(h)(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.” <b>We request the addition of (h)(3)(A) to read: “Jurisdictions may request to review and audit food recovery donation records if there is a need to verify generator data, but in no circumstances are proprietary food recovery data to be publicly reported.”</b> We are unclear about the mechanism by which food recovery organizations will be required to report annual pounds, and stress that donor	There are no requirements in the regulations that mandate the reporting of such information. Food recovery organizations and services that are subject to SB 1383's regulations are only required to report the total pounds collected in the previous calendar year to the jurisdiction where their primary address is physically located. There is no requirement to report donor names. 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.



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	Davidson, M., San Francisco-Marin Food Bank	information is proprietary. In on circumstances are proprietary food recovery data to be publicly reported.	
6080	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Please confirm that an individual food recovery organization (recovering over 6-tons per year) is only required to report the total pounds recovered per year, not per year by donor.	This comment is asking for clarification of a reporting requirement for food recovery organizations and food recovery services. To clarify, 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 (directly from commercial edible food generators) in the previous calendar year to the jurisdiction that they are physically located in. There is no requirement to report donor names. Please note that the 6-ton threshold was removed from the regulations and recordkeeping and reporting are not the same.
6081	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Article 14: Section 18995.1. Jurisdiction Inspection and Enforcement Requirements “(a)(2): Beginning January 1, 2022, conduct inspections of Tier One commercial edible food generators and <del>food recovery organizations</del> and services for compliance with this chapter. Beginning January 1,2024, conduct inspections of Tier Two commercial edible food generators for compliance with Article 10.” <b>Please confirm that such an inspection for food recovery organizations would be limited to the record keeping requirements in Article 10; otherwise we request to strike ‘food recovery organizations.’</b>	A change to the regulatory text is not necessary. A jurisdiction shall be inspecting food recovery organization to verify they are maintaining records as described in Section 18991.5
6082	Cheyne A., California Association of Food Banks; Polka, D., Los Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	Article 15: 18996.9. Department Enforcement Actions Against Entities “(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 or where the entity is a non-local entity except as provided in Sections 18996.6 and Section 18996.7.” We ask CalRecycle for clarification that enforcement with food recovery organizations in this context is only referring to their requirement to report total number of pounds of food recovered per year.	A change to the regulatory text is not necessary. A jurisdiction shall be inspecting food recovery organization to verify they are maintaining records as described in Section 18991.5. Food recovery organization do need to report to the jurisdiction the amount of food recovery each year pursuant to Section 18994.2(h)(2)(A).
6083	Cheyne A., California Association of Food Banks; Polka, D., Los	Article 16: Section 18997.2. Penalty Amounts Tables 1 and 10 (last rows): Non-profit food recovery organizations should not be penalized if they are keeping records in good faith.	The only direct requirements for food recovery services and organizations are established in Section 18991.5. This section establishes minimum record keeping requirements for services and organizations that elect to establish a contract or written agreement with a commercial edible

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	Angeles Regional Food Bank; Knight, S., Alameda County Community Food Bank; Weatherby, T., Second Harvest Food Bank of Santa Clara and San Mateo Counties; Davidson, M., San Francisco-Marin Fo	At the very least, food recovery organizations that are recovering less than 6-tons of food per year should be exempt from any penalties.	<p>food generator (as defined in the regulations). A food recovery service or organization that does not have a relationship with a commercial edible food generator, as defined, is not subject to the record keeping requirements. Further the timeline for issuing penalties provides ample time for a recovery organization or service to come into compliance with the record keeping requirements. As noted in the response to comment 15;0094 an entity may have up to seven months to achieve compliance with a violation such as record keeping. CalRecycle believes this provides sufficient time for an entity acting in good faith to achieve compliance with the requirements.</p> <p>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 record keeping requirements of the regulations.</p> <p>With respect to fines issues by the department; the department’s authority to take enforcement against an entity subject to a jurisdictions enforcement authority (e.g. food recovery organization) is clarified in Section 18996.3. That section articulates that the department’s enforcement against entities subject to a jurisdictions authority should occur after a jurisdiction has failed to correct a violation within the timelines established in the regulation.</p>
4699	Chiarodit, County of Santa Barbara	<p>Article 17: Performance-Based Source-Separated Organic Collection Service</p> <p>“a. Authorized jurisdictions, in-lieu of implementing specified provisions of the regulation, to implement a performance-based source separated organic collection service.....</p> <ol style="list-style-type: none"> <li>1. Provide a three-container organic waste collection service to 90 percent of generators subject to the jurisdictions authority.</li> <li>2. Transport all source separated organic waste collection containers to designated source separated organic waste recovery facility that recovers 75 percent of all organic content.</li> <li>3. Demonstrate that less than 25 percent of the content of gray (disposal) containers is organic waste.</li> </ol> <p>ii. A jurisdiction implementing a performance-based source separated organic collection service is not required to comply with specified aspects of the regulation related to contamination monitoring, enforcement, education and outreach, reporting and other provisions.” (From the summary of changes)</p> <p>The positive aspect of this new section is that a jurisdiction that meets certain criteria “is not required to comply with specified aspects of the regulation related to contamination monitoring, enforcement, education and outreach, reporting and other provisions.” This waiver helps ameliorate the universal complaint about the prescriptive nature of the draft regulations. It is also a tacit admission that many of the proposed requirements are <b>not necessary</b> for the health, safety, and welfare of the people of the State of California.</p> <p>However, the waiver of non-essential requirements only applies to qualifying source-separated systems. This bias is consistent with the first drafts of SB 1383,</p>	<p>Comment Noted. The regulations provide multiple compliance options, each compliance option is unique and has an appropriate set of minimum standards. Allowing an exemption from certain requirements for one compliance option does not mean the requirement is “non-essential” for other compliance options. Regarding the request that jurisdictions that meet 75 percent recover should be exempt from non-essential compliance options, see response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3.</p>

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		<p>which initially sought to disallow mixed waste recovery options. From the Initial Statement of Reasons:  “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> <p>Despite the concession to allow mixed waste recovery, the bias towards source-separation persists throughout the Initial Statement of Reasons, where the point is repeatedly made that “when organic waste is mixed with non-organic waste the recoverability of both materials is compromised.”</p> <p>The fact is that all systems struggle with very high levels of contamination and cross-contamination, and we know of no source-separated system of any significant size that has met the recovery standards of SB 1383. For mixed waste systems, the use of plastic bags for organics can simultaneously minimize contamination and enhance recovery at a MRF. The point is not to debate the merits of different systems - that should be a local choice. The point is that CalRecycle should not codify a bias if the measurable goals of AB 1383 are met. CalRecycle acknowledges as much in the Initial Statement of Reasons:  “The primary collection requirements in the first sections of this article are supported by a series of secondary requirements, including education requirements, contamination monitoring requirements, container requirements and recordkeeping requirements.....these supporting sections are essential to ensure a <b>level playing field across regulated entities</b>. These secondary requirements ensure regulated entities are held to the same minimum standards.”</p> <p>The draft legislation has reverted to a preference for source-separation, and does not achieve the stated purpose of ensuring a “level playing field across regulated entities.” By favoring source-separation, “regulated entities” are <b>not</b> “held to the <b>same minimum standards</b>.”</p> <p>Creating a special label for source separated systems as uniquely “performance-based” is misleading. All acceptable programs will be “performance-based.” Our jurisdiction requests that the exemption from non-essential requirements be extended to any system that can meet the relevant measurements, with the overarching metric being the recovery of 75% of organic content in an acceptable manner.</p>	
4700	Chiarodit, County of Santa Barbara	<p><b>(e) For violations of the Recovered Organic Waste Product Procurement requirements... (4) The penalty amount shall be calculated by determining an appropriate penalty level based on the factors in subdivision (d), above, and</b></p>	<p>Regarding authority, 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</p>

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		<p><b>multiplying that number by the number of days determined according to subsection (e)(3), above. The penalty amount shall not exceed \$10,000 per day.</b></p> <p>The Organic Waste Procurement section is not new, but there were no penalties in previous drafts for failure to meet the procurement target. Simply put, there should be no penalties if the jurisdiction is meeting the 75% recovery in an acceptable manner. Our county is not in favor of the proposed fines, but at the very least they should only be triggered when the jurisdiction does not deliver a successful program. Prescribing the exact manner in which success is achieved, in this case through procurement specifications, is an unnecessary intrusion into local decision-making. It is not supported by the enabling language passed by the legislature except by the questionable inference that the law demands a prescriptive approach.</p>	<p>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. 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>

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			<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>Pursuant to the statutory language of SB 1383, the organic waste diversion goals of 50% in 2020 and 75% by 2025 are measured on a statewide basis rather than jurisdiction-by-jurisdiction. As such, enforcement of the regulatory requirements for 75% is not determined per jurisdiction as the commenter suggests. CalRecycle finds that enforcement of the procurement requirements is necessary to ensure achievement of the goals of the statute.</p> <p>Penalties in the initial draft did include procurement, but CalRecycle determined that it was necessary to have specific penalty calculations for procurement to ensure equitable penalty amounts on a “per day” basis consistent with the penalty limitation in SB 1383. This avoids excessive daily penalties for missing an annual procurement target by prorating the amount of deviation from the procurement target on a daily basis rather than penalizing for a full 365 days for partial deviations from the target.</p>
4710	Chiarodit, County of Santa Barbara	If a jurisdiction is currently marketing all of the organics collected (green waste plus some food), and that jurisdiction can find a useful home for all future organics processed, is it subject to the new penalties if there is no need for expanded procurement as opposed to marketing?	<p>If the jurisdiction can demonstrate that the amount of material that must be procured exceeds the jurisdiction’s own demand the target can be lowered, per Section 18993.1(j). This would occur if a jurisdiction’s recovered organic waste procurement target translated to 2,000 diesel gallon equivalents (DGE) of renewable transportation fuel, but the jurisdiction’s combined procurement of fuel, heating, and electrical needs for the previous year is less than 2,000 DGE. Given how small the procurement targets are compared to how much gas is actually used in CA this may only apply for small jurisdictions, or jurisdictions that eliminate all gas from their energy and fuel portfolio. Regardless of the option for lowering targets, a jurisdiction is only responsible for procuring the material (compost, various forms of renewable gas, or electricity from biomass conversion), the jurisdiction is not required to use it for its own operations (e.g. procured compost does not need to be used by city staff on city parks). A county could meet its procurement obligation by requiring its hauler to give away compost to county residents, for example.</p> <p>Finally, Section 18996.2 (CalRecycle enforcement) includes provisions where, in lieu of penalties, a jurisdiction could be issued a Corrective Action Plan (CAP) if it fails to comply with a specific regulatory obligation. CAPs are allowed for jurisdictions that make substantial effort to comply with a regulatory obligation but are unable to due to circumstances outside of their control.</p>
4314	Chroust, C. County of Ventura Procurement Services	<p>What about the renewable diesel that is sold in the state? Neste and one other vendor I think.</p> <p><b>Renewable diesel</b> (RD) is an emerging replacement fuel for today's heavy-duty <b>diesel</b> engines. It is chemically identical to conventional (fossil) <b>diesel</b> fuel, but RD is produced from 100 percent <b>renewable</b> feedstock and contains no fossil carbon.</p> <p><a href="https://www.neste.us/customers/products/renewable-products/neste-my-renewable-diesel?gclid=EAIaIQobChMIua2Y9OU4wIVisJkCh3lQYyFEAYASAAEgJ62vD_BwE">https://www.neste.us/customers/products/renewable-products/neste-my-renewable-diesel?gclid=EAIaIQobChMIua2Y9OU4wIVisJkCh3lQYyFEAYASAAEgJ62vD_BwE</a></p>	<p>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.</p> <p>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>

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4315	Chroust, C. County of Ventura Procurement Services	In reviewing the procurement requirements of SB 1383 for Ventura County. Earlier it looked as if biodiesel or renewable diesel would qualify for the fuel requirement. I have seen a recent draft where it appears to be only gaseous diesel equivalent. Is this the only acceptable fuel?	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.
4711	Chroust, C., County of Ventura	Could you confirm that, like clean electrical power uses common infrastructure, an entity could purchase renewable natural gas, have it injected into an existing pipeline, and then fill their vehicles from the common pipeline of comingled natural gas? The invoices for the RNG would meet the reporting requirements correct?	The renewable gas consumed does not have to be derived from a jurisdiction's own organic waste. The obligation is to procure renewable gas (used as fuel, electricity or heating) that is derived from organic waste recycling of California generated organic waste. The common pipeline analogy is correct. Provided that the jurisdiction can show it is responsible for a certain quantity of renewable gas being added to the pipeline at its behest (e.g. invoice) the actual gas used can be comingled.
6320	Chroust, C., County of Ventura	Reviewing SLCP Organic waste reduction proposed regulations I have concerns about the burden placed on local governmental agencies and their populations. Diverting waste is a great cause and should be implemented. Concerns arise while reviewing the proposed method of implementation and the inflexibility of the market in this regard. Reviewing the California Air Resources Board and the California Environmental Protection Agency commissioned report, "The Feasibility of Renewable Natural Gas as a Large-Scale, Low Carbon Substitute Contract No. 13-307" completed at UC Davis by Jaffe and Dominguez-Faus, the report calls out the most economical implementation area as Los Angeles but also implies that the San Francisco Bay area, and San Diego, would also fit this criteria. I reference the report in the context of section 18993.1 which requires entities to procure diverted products and derivatives. Other sections of the proposed SLCP regulation include agency proposed "implementation timelines." Section 18993.1. Recovered Organic Waste Product Procurement Target that mandates the procurement of Compost, Renewable Natural Gas, and Biomass electricity does not contain such a provision. Further, the exemptions based on census tracts seem arbitrarily applicable in the context of the chapter.	Regarding the implementation timeline, Article 12 will take effect along with the rest of the regulations on January 1, 2022. Regarding exemptions, the only related provision in Article 12 is Section 18993.1(j), which is unrelated to the comment's reference to "census tracts". The provision related to census tracts is part of Article 3: Organic Waste Collection Services, Section 18984.12.
6321	Chroust, C., County of Ventura	Based on these facts a rolling implementation, from high population density to low, and minor changes to the prescribed exemption process, makes the most sense for California for several reasons: 1. Limited retrofitting construction and design resources – Flipping the switch on the entire state at once is the most costly way to make the changeover to consumption of RNG and BioMass Electricity, Staggering the implementation windows to allow for project construction time will fix this problem,	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

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			<p>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>
6322	Chroust, C., County of Ventura	2. Leverage existing resources - Fueling stations exist mainly in the high population density areas – The environmental benefits will be lost if heavy equipment must travel extra distances for fueling, Vehicles should be exempted based on the distance from an established fueling station, not the “apply for a waiver” process based on population density,	CalRecycle disagrees with the comment’s interpretation that the draft regulations mandate the use of renewable fuel. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste product(s) that best fit local needs. A jurisdiction has the option to procure other products if local fueling stations are not accessible.
6323	Chroust, C., County of Ventura	3. Compressed RNG fueling is slower – Parts of California that are sparsely populated will have to take vehicles out of services earlier in the day to fuel and will need to purchase more trucks to deliver the same services. This works for Garbage trucks that sit at night however, most public works vehicles have varying schedules,	CalRecycle disagrees with the comment’s interpretation that the draft regulations mandate the use of renewable fuel. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste product(s) that best fit local needs. A jurisdiction has the option to procure other products if local fueling stations are not accessible.
6324	Chroust, C., County of Ventura	4. Local Fueling options - The report generated for CARB clearly states that it considers the “supply curves for renewable natural gas in California using technical estimates of resource availability and technology performance,” It continues that the feasibility report doesn’t consider the actual refueling of vehicles. Stating plainly “no local refueling is considered here.” and;	CalRecycle disagrees with the comment’s interpretation that the draft regulations mandate the use of renewable fuel. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste product(s) that best fit local needs. A jurisdiction has the option to procure other products if local fueling stations are not accessible.
6325	Chroust, C., County of Ventura	5. Commodity Demand Management - Flipping the switch on all California government at once will trigger an onslaught of demand which will result in price instability for both RNG and Biomass Electricity – There should be a rolling implementation and the allowance for an agency to submit a plan that is flexible as market conditions change.	<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>
6326	Chroust, C., County of Ventura	A staggered rolling approach, implementing major population areas, that have fueling stations and generate sufficient methane and hydrogen for capture should	Regarding a "staggered, rolling approach," CalRecycle disagrees with the suggestion to phase-in procurement or to hold a subsequent rulemaking. If the state is to achieve the ambitious landfill

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		<p>be implemented first. It's a big state. More than half of counties (32 of 58) in California don't appear have significant potential generation of methane and hydrogen (see the CARB report).</p>	<p>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> <p>Regarding the lack of methane generation in many counties, California is a diverse state with over 400 jurisdictions. The draft procurement regulations are designed to provide flexibility for jurisdictions to choose the recovered organic waste product(s) that best fit local needs. A jurisdiction does not have to "generate" the recovered organic waste product, it may purchase or procure it from anywhere in the state provided the end product is made from California, landfill-diverted organic waste, per the recovered organic waste product definition in Section 18982(60).</p>
6327	Chroust, C., County of Ventura	<p>Suggested revisions:  Article 12 should be amended as follows:  39 Section 18993.1. Recovered Organic Waste Product Procurement Target  40 (a) Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall  41 <b>submit a plan</b> to annually procure a quantity of recovered organic waste products that meets or exceeds  42 its current annual recovered organic waste product procurement target as determined  43 by this article, <b>reaching that target within 7 years.</b>  Note: 7 years is the half life of diesel vehicles according to the CARB study and would allow for the planning and building of new infrastructure.</p>	<p>SB 1383 requires CalRecycle to implement regulations to reduce organic waste disposal in California by 50% by 2020 and 75% by 2025 from a 2014 baseline. In order to achieve these ambitious targets, it is not feasible to phase in procurement requirements. 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>
6328	Chroust, C., County of Ventura	<p>5 Section 18984.12. Waivers and Exemptions Granted by the Department  6 (a) Low population waivers:  13 (2) A county <b>shall be exempt</b> from some or all of the  14 requirements of this <del>chapter article for census tracts located in unincorporated portions of the</del>  15 <del>that if the county</del> has a population density of less than 75 people per square mile.</p>	<p>The recommendation is vague, "x tonnes," is not specific enough to be incorporated into a regulation. Further it unclear how exempting a jurisdiction based on generation of hydrogen would help achieve the purpose of the statute. The recommendation is vague, "x tonnes," is not specific enough to be incorporated into a regulation. Further it unclear how exempting a jurisdiction based on generation of hydrogen would help achieve the purpose of the statute.</p>



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		<p><b>16 or has a potential hydrogen and methane production of less than x tonnes.</b>  Note: from the NREL map from the CARB study 5,000 potential tonnes of methane or 1,149 potential tonnes of hydrogen seems like an applicable number.</p>	
3002	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<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 landfill 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, and excessive inspection and monitoring reporting, while requiring counties and cities to impose steep penalties on residents and businesses.</p> <p>Therefore, the Task Force believes that the Second Formal Draft of the proposed regulations stipulate a number of mandates that are inconsistent with the provisions of the Article XI of the California Constitution in re to general law and charter cities and counties as well as provisions of the California Public Resources Code (PRC), Subdivision 40059 (a) which, in part, states, “each county, city, district, or other local governmental agency may determine all the following: .....</p> <p>The Task Force strongly recommends the Second Formal Draft of the proposed regulations be revised consistent with the provisions of the California Constitution and the California Law 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. SEE LETTER FOR FULL COMMENT (too long to paste).</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. In making the decision to make jurisdictions the first line of enforcement CalRecycle is exercising its discretion to utilize and build upon the existing waste management structure created by AB 939 and provide jurisdictions with broader authority with respect to industry and other private and public organic waste generators. CalRecycle is also taking on enforcement authority for organic waste generators that are not under the authority of local jurisdictions.</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>Regarding authority, 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</p>

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			<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. 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>
3003	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>SB 1383 does <b>not</b> provide CalRecycle with the authority to <b>require</b> local jurisdictions such as counties and cities to impose civil (monetary) penalties on residential or commercial organic waste generators for non-compliance. This requirement as stipulated by CalRecycle exceeds the authority granted to CalRecycle by State law.</p> <p>While SB 1383 grants CalRecycle the authority to “require local jurisdictions to impose <b>requirements</b> on generators or other relevant entities within their jurisdiction,” this authority does not extend to the imposition of <b>penalties</b> (emphasis added). SB 1383 only states that CalRecycle “<b>may authorize</b> 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>However, the proposed regulations (Article 16, Section 18997.1) specify that jurisdictions “shall adopt <b>ordinance(s)</b> or enforceable mechanisms <b>to impose penalties</b> that are equivalent or stricter than those amounts in Section 18997.2.” (emphasis added).</p> <p>In addition, Section 18997.2. Penalty Amounts, requires: “(a) <b>A jurisdiction shall impose penalties</b> 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</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>Regarding authority, 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>penalty level in subsection (b), (emphasis added).” As proposed, a single-family dwelling may be subject to a penalty of \$100 for the first offense, \$200 for the second offense, and \$500 for the third and each subsequent offense in a given year.</p> <p>In requiring counties and cities to impose steep civil penalties of up to \$500 per offense 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, <b>charges and fees</b>, and nature, location, and extent of providing solid waste handling services” (emphasis added).</p> <p>Therefore, <b>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.</b> The language may be revised pursuant to PRC Section 42652.5 (a)(1) to <b>authorize</b> counties and cities to do so, as they deem appropriate (emphasis added).</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: (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>
3004	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>SB 1383 does not preclude CalRecycle from considering county or city “good faith efforts” to comply with the regulations as stated in the Second Formal Draft of the proposed 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 <b>inaccurate</b> and <b>contrary</b> to the language of SB 1383.</p> <p>Section 42652.5. (a)(4) of the PRC specifically <b>requires</b> CalRecycle to consider “good faith effort” in determining a jurisdiction’s progress in complying with the law. It states that CalRecycle “<b>shall</b> base its determination of progress on relevant factors,</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>

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		<p>including, but <b>not limited to, reviews conducted pursuant to Section 41825</b>” (emphasis added).            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 <b>required</b> to consider “good faith effort” in making its determination of a jurisdiction’s progress. Therefore, <b>the proposed regulations need to be revised to provide for this provision.</b></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>
3005	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>The Second Formal Draft of the proposed regulations require local governments to purchase recovered/recycled organic waste products targets set by CalRecycle. While the Task Force 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 incurring for complying with the extensive programmatic requirements of the proposed regulations. Therefore, the Task Force respectfully requests that CalRecycle instead work to develop markets for recovered/recycled organic waste products.</p> <p>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 Second Formal Draft of the proposed regulations would impose a new program on local governments and neither the draft regulations nor the Amended 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 “<b>tax</b>” under Cal. Const. Art. XIII C, sec. 1(e) (Prop. 26) as it would not meet any of the exceptions identified in that section (emphasis added). 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>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>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.</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</p>

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			<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, 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>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>
3006	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	Overreaching Regulations – the Second Formal Draft of the Proposed Regulations. 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>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>

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			<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>Regarding authority, 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>

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			<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>
3007	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>(39.5) “Lifecycle greenhouse gas emissions or “Lifecycle GHG emission” - In reference to Section 18983.2 (a) (3), it is our understanding that the calculated greenhouse gas reduction of 0.30 MTCO<sub>2</sub>e/short ton from composting organic waste is based on a modified assessment as documented in the Initial Statement of Reasons. For example, some factors such as the impact of greenhouse gas emission due to transportation of organic waste to distant facilities were omitted from analysis. We strongly believe that for the purpose of determination of technologies that constitute a reduction in landfill disposal, the impact of GHG emission from transportation need to be considered and the standard of 0.30 MTCO<sub>2</sub>e/short ton of organic waste standard needs to be adjusted.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  (39.5) “Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a diversion location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential. <b>However, for the purposes of Article 2 of these regulations, the aggregated quantity of greenhouse gas emissions shall not include emissions associated with other operations or facilities with processes that reduce short-lived climate pollutants, as that term is used in Article 2, that are similar to or consistent with those emissions that were excluded as the basis for developing the 0.30 MTCO<sub>2</sub>e/short ton of organic waste standard.</b></p>	<p>Staff used the methodology described in guidance doc referenced in the FSOR to derive the 0.30 MMTCO<sub>2</sub>e/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 MTCO<sub>2</sub>e threshold and therefore must be considered in the GHG emissions reduction and the lifecycle GHG emissions calculations.</p>
3008	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>In regards to the definition of “Organic Waste” as defined in Paragraph (46), at the CalRecycle’s SB 1383 Public Workshop held at the South Coast Air Quality Management District on June 18, 2019, a member of audience asked if “Organic Waste as defined includes Plastic?” to which Mr. Hank Brady responded “NO.” Therefore, the definition of “Organic Waste” needs to be revised to exclude plastic products.</p>	<p>The definition of organic waste clearly identifies materials that are types of organic waste for purposes of application to the proposed regulations. It is not feasible or necessary to state in the negative every material that is not an organic waste.</p>

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		<p>The definition of “organic waste” in the regulations conflicts with 14 CCR §18720, which defines “organic waste” as “solid wastes originated from living organisms and their metabolic waste products, and from petroleum, which contain naturally produced organic compounds, and which are biologically decomposable by microbial and fungal action into the constituent compounds of water, carbon dioxide, and other simpler organic compounds.” Because this definition of organic waste includes solid waste originating from petroleum, i.e. plastics, the regulations should clarify that plastics are not considered “organic waste.”</p> <p>The “organic waste” definition as proposed in Paragraph 46 includes the phrase “organic textiles and carpets.” The proposed regulations do not define the phrase “organic textile and carpets” and the definition needs to be provided.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  (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. <b>“Organic waste” does not include plastic products.</b>  <b>(53.5) “Plastic products” means any non-hazardous and non-putrescible solid objects made of synthetic or semi-synthetic organic compounds.</b></p>	
3009	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>The definition of “renewable gas” without any justifiable reason and/or scientifically supported analysis, is limited it to gas derived from in-vessel digestion of organic waste only. The regulations need to expand the definition of “renewable gas” to include gas derived from other technologies, including biomass conversion utilizing thermal conversion technologies such as gasification and pyrolysis, methane gas generated from municipal solid waste landfills since it is biogenic in origin, and any other technologies that are determined to <b>constitute a reduction in landfill disposal</b> pursuant to Section 18983.2. (emphasis added).</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  (62) “Renewable Gas” means gas derived from <del>organic waste that has been diverted from</del> a landfill <b>or organic waste and</b> processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, <b>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.</b></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 expanding “renewable gas” to include gas from biomass conversion, 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>
3010	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18983.1. The proposed regulations without establishing any definitions/restrictions use the term “disposal” and the phrase “landfill disposal” intermittingly and thus causing confusion. As established by AB 939, (1989), and its implementing regulations, the term “disposal” includes “landfill disposal” as well as other type of disposal, including transformation. However, within the scope of SB 1383, the term “disposal;” is limited to “landfill disposal” reduction only. As such,</p>	<p>Comment noted. CalRecycle does not believe a change is necessary as the term disposal as used in the scoping section clearly refers to landfill disposal. The term disposal and landfill disposal are frequently used interchangeably. In fact, the section of the Health and Safety Code codified by SB 1383 commenter does just that:  Health and Safety Code Section 39730.6.  (a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics:</p>



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		<p><b>we recommend that the proposed regulations be expanded to define the term “disposal” and the phrase “landfill disposal.”</b></p>	<p>(1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020.</p> <p>(2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025.</p> <p>(b) Except as provided in this section and Section 42652.5 of the Public Resources Code, 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.” (emphasis added).</p> <p>As noted in the Initial Statement of Reasons, there is no existing definition of landfill disposal, or organic waste disposal in the Health and Safety code. As a result, Article 2 of the regulations specifically identifies activities that constitute landfill disposal of organic waste for the purposes of the regulations. The regulations also identify activities that constitute a reduction of landfill disposal of organic waste. Activities that constitute landfill disposal were identified in the regulations in consultation with CARB, as required by statute.</p> <p>However in response to comments on this item CalRecycle staff conducted a thorough review to ensure the term disposal and landfill disposal were used properly and consistent with the statutory intent throughout the regulation.</p>
3011	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18983.1. SB 1383 requires the state to achieve specified targets to reduce the landfill disposal of organics. However, the regulations consider any disposition of organic waste not listed in Section 18983.1 (b) to be landfill disposal, including any thermal conversion technologies (CTs) besides biomass conversion. Public Resources Code (PRC) 40195.1 defines “solid waste landfill” as “a disposal facility that accepts solid waste for land disposal,” indicating that non-combustion thermal CTs which produce energy or fuels from solid waste rather than disposing solid waste on land should not be categorized as landfill disposal. The definition of “landfill” in Section 18983.1 (c) of these regulations contradicts PRC 40195.1. Section 18983.1 (c) defines “landfill” as “permitted landfills, landfills that require a permit, export out of California for disposal, or any other disposal of waste as defined by Section 40192 (c) of the Public Resources Code [the final deposition of solid wastes onto land].” The definition of “export out of California for disposal” could potentially include thermal CTs, while the definition of “solid waste landfill” in PRC 40195.1 is clearly limited to land disposal only and does not include thermal CTs.</p> <p>It is our understanding that thermal CTs are classified as landfill disposal due to concerns over their emissions. Although thermal CTs produce some limited emissions of greenhouse gases, dioxins, furans, volatile organic compounds, and criteria pollutants, these emissions do not have the multiplicative effects of methane emissions, which are 72 times more powerful than emissions of carbon dioxide in terms of atmospheric warming according to the California Air Resources Board. By replacing sources of fossil-based energy, thermal CTs actually reduce life-cycle methane emissions. Therefore, the regulations should not exclude any process or technology from being considered a reduction in landfill disposal, except for final</p>	<p>CalRecycle concurs that it is important to maintain 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 gas reductions that meets or exceeds the baseline of 0.30 MTCO<sub>2</sub>e per short ton. Currently, only the technologies and activities specified in section 18983.1(b) have been verified to meet this baseline. The draft regulations include Section 18983.2, Determination of Technologies That Constitute a Reduction in Landfill Disposal. This section provides a pathway for including additional activities and technologies such as the one referenced in your comment.</p>

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		<p>deposition at a landfill or organic waste used as alternative daily cover, pursuant to Assembly Bill 1594 (Chapter 719 of the 2014 State Statutes). Proposed Regulatory Text and Recommended Changes/Revisions: (a) The following dispositions of 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. (A) The use of non-organic material as landfill cover shall not constitute disposal of organic waste. (B) If as a part of the approval process pursuant to Section 20690 or 20700 of Title 27 Division 2, the operator demonstrates that approved material recovery fines that will be used for cover material do not include organic waste, the use of material recovery fines shall not constitute disposal of organic waste. <del>(3) Any other disposition not listed in subsection (b) of this section.</del></p>	
3012	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18983.1. In addition to anaerobic digestion and composting, biosolids and digestate can also be processed through gasification. Biosolids and digestate that are gasified produce biochar, an organic soil amendment. The Task Force recommends that CalRecycle include the land application of biochar produced from biosolids and digestate 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> <p>Proposed Regulatory Text and Recommended Changes/Revisions: (b) (6) Land application of compostable material, consistent with Section 17852 (a) (24.5) of this division subject to the following conditions on particular types of compostable material used for land application: (A) Green waste or green material used for land application 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 used for land application shall: 1. Have undergone <del>anaerobic digestion or composting</del>, <b>any of the pathogen treatment processes</b> as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, <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</b>, and, 2. Meet the requirements in Section 17852 (a) (24.5) (B)(6) of this division for beneficial reuse of biosolids. (C) Digestate used for land application 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 <b>or gasified, as defined in</b></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<sub>2</sub>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. 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<sub>2</sub>e 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 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>

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		<p><b>Section 40117 of the Public Resources Code, to produce biochar, as defined in Section 14513.5 of the Food and Agriculture Code;</b> and,</p> <p>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>	
3013	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18983.2 Determination of Technologies that Constitute a Reduction in Landfill Disposal 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 (a) (3) states “To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department in consultation with CARB’s Executive Office shall compare the permanent lifecycle GHG emissions reduction of metric tons of carbon dioxide equivalent (MTCO<sub>2e</sub>) per short ton organic waste reduced by the process or technology, with the emissions reduction from <b>composting</b> organic waste (0.30 MTCO<sub>2e</sub>/short ton 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 <b>SB 1383 mandates reduction of organic waste disposal in landfills and not any other type of facilities such as those utilizing conversion technology</b>, (emphasis added).</p> <p>The regulations state that the Department shall provide a response to all applicants requesting verification of new technologies that constitute a reduction in landfill disposal within 180 days. The regulations should be revised so that if the Department fails to provide a response, the application is considered approved and verified as a technology that constitutes a reduction in landfill disposal.</p>	<p>CalRecycle intends the 180-day timeline as advisory in order to guide the review process on a reasonable timeline. However, CalRecycle declines to provide a procedure where a determination regarding alternative processes or technologies that may constitute landfill disposal is made by operation of law upon the expiration of time. This section is intended to produce a decision based on an informed decision making process based on solid science and adequate agency review. The comments regarding the comparison of a proposed technology's permanent lifecycle GHG emission reductions to those achieved with composting, for the purposes of whether the proposed technology or process shall be deemed to constitute a reduction in landfill disposal, are outside the scope of 15-day changes to the proposed regulations and therefore do not require a response. However, staff notes that these comments address identical issues raised in 45-day comments and are responded to in the section of the FSOR responding to 45-day comments. 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>

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		<p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(2) The Department shall consult with The Executive Officer of the California Air Resources Board to evaluate if the information submitted by the applicant is sufficient to estimate the greenhouse gas emissions and permanent lifecycle GHG emissions reduction of the proposed recovery process or operation. Within 30 days of receiving the application, the Department shall inform the applicant if they have not submitted sufficient information to estimate the greenhouse gas emissions and permanent lifecycle greenhouse gas emissions reductions associated with the proposed recovery process or operation. For further consideration of any application submitted without sufficient information, the applicant is required to submit the requested information. The Department shall provide a response to the applicant within 180 days of receiving all necessary information as to whether or not the proposed recovery process or operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal. <b>If the Department fails to provide a response to the applicant within 180 days of receiving all necessary information, the application shall be considered approved and the proposed recovery process or operation shall count as a reduction in landfill disposal.</b></p>	
3014	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18984.9. Organic Waste Generator Requirements.</p> <p>Generators that are not commercial businesses are not required to provide organic waste collection containers in restrooms. However, the definition of “organic waste” in Section 18982 (a) (46) includes “paper products.” “Paper products” are defined in Section 18982 (a) (51) to include paper janitorial supplies, tissue, and toweling. Therefore, the Task Force requests clarification from CalRecycle on whether paper products generated in the restroom of a commercial business are required to be diverted through any of the activities listed in Section 18983.1 (b) and whether a commercial business or a jurisdiction could be penalized for disposing paper products generated in the restroom of commercial business.</p>	<p>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. A collection container in a restroom is not required. Also, the regulations do not require penalties for contamination.</p>
3015	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18984.12. Waivers and Exemptions Granted by the Department</p> <p>There are numerous areas of the County with elevations around 1,000 feet above sea level or higher that experience significant issues with bears and other wild animals scavenging for food in trash cans. CalRecycle should consider authorizing the Department of Fish and Wildlife to grant elevation waiver extensions for areas at elevations lower than 4,500 feet above sea level that experience similar challenges to food waste collection.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(d) Elevation Waivers:</p> <p>(1) An incorporated city may apply to the Department for a waiver for the jurisdiction and some or all of its generators from the requirement to separate and recover food waste and food soiled paper if the jurisdiction is located at or above an elevation of 4,500 feet. <b>An incorporated city may apply to the Department of Fish and Wildlife for a waiver for the jurisdiction and some or all of its generators from</b></p>	<p>The Department of Fish and Wildlife does not have jurisdiction over waste regulations and cannot oversee a waiver established in the SB 1383 regulations. The elevation in the elevation waiver allows flexibility for jurisdictions that face specific waste collection challenges while still achieving the legislatively mandated goals. In conducting the Environmental Impact Report for the proposed regulations CalRecycle reviewed the map provided by the commenter and over-laid it with the areas eligible for waivers under the existing provisions, it does not appear the stakeholders requested allowance would waive an areas not already eligible for waivers. However as noted above, the existing waiver provisions were crafted to reflect waste generation and the organic waste reduction targets. Providing a waiver process that could be ever evolving as habitat patterns change eliminates any certainty regarding the total amount of material that would be waived, compromising the ability of the state to achieve the organic waste reduction targets.</p>

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		<p><b>the requirement to separate and recover food waste and food soiled paper if the jurisdiction is located at or above an elevation of 1,000 feet and below an elevation of 4,500 feet.</b></p> <p>(2) A county may apply to the Department for a waiver for some or all of its generators <b>from the requirement to separate and recover food waste and food soiled paper</b> in census tracts located in unincorporated portions of the county that are located at or above 4,500 feet. <b>A county may apply to the Department of Fish and Wildlife for a waiver for some or all of its generators from the requirement to separate and recover food waste and food soiled paper in census tracts located in unincorporated portions of the county that are located at or above an elevation of 1,000 feet and below an elevation of 4,500 feet.</b></p>	
3016	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18984.12. 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> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(e) Nothing in this section exempts a jurisdiction from:</p> <p>(1) Its obligation to provide organic waste collection services that comply with the requirements of this article to businesses subject to the requirements of Section 42649.81 of the Public Resources Code, <b>although the Department may grant waivers and/or extensions to any jurisdiction that has made good faith efforts to comply with the requirements of this article but has been unable to comply due to circumstances outside its control.</b></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.
3017	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18984.13. The Task Force believes that the regulations should not require jurisdictions to separate or recover organic waste discarded in publicly-accessible waste bins, such as at public parks and beaches, to protect public health and safety. It may be very difficult to prevent the public from placing prohibited container contaminants in public organic waste collection bins. Furthermore, public organic waste collection bins may encourage scavenging practices, posing significant public health and safety issues in urban jurisdictions such as Los Angeles County.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(c) A jurisdiction is not required to separate or recover organic waste that is removed from homeless encampments, <del>and</del> illegal disposal sites, <b>and publicly-accessible waste receptacles at beaches, parks, or other similar facilities</b> as part of an abatement activity to protect public health and safety. If the total amount of solid waste removed for disposal <b>from homeless encampments and illegal disposal sites</b> pursuant to this subdivision is expected to exceed 100 tons annually the jurisdiction shall record the amount of material removed.</p>	The regulations do not require that organics recycling containers be placed next to trash containers in public areas, such as public parks, beaches, etc.
3018	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT	The waivers in this section allow organic waste removed from homeless encampments or illegal disposal sites and organic waste subject to quarantine to be disposed to protect public health and safety. The regulations should clarify that any	The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency

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	COMMITTEE/IWM TASK FORCE	<p>organic waste subject to these waiver exemptions that is disposed will not count toward jurisdiction waste disposal calculated for compliance with Assembly Bill 939 and any future waste disposal reduction or waste diversion compliance mandates.</p> <p>In addition, local county agricultural commissioners have delegated authority from the California Department of Food and Agriculture (CDFA) to regulate quarantined waste. Therefore, the regulations should be revised to allow jurisdictions to receive the necessary approvals from local county agricultural commissioner's instead of the CDFA to dispose of specific types of organic waste that are subject to quarantine.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(c) A jurisdiction is not required to separate or recover organic waste that is removed from homeless encampments and illegal disposal sites as part of an abatement activity to protect public health and safety. If the total amount of solid waste removed for disposal pursuant to this subdivision is expected to exceed 100 tons annually the jurisdiction shall record the amount of material removed. <b>The Department shall not count any organic waste that is removed from homeless encampments and illegal disposal sites and subsequently disposed toward jurisdiction waste disposal for compliance with any existing or future state waste disposal reduction or waste diversion compliance mandates.</b></p> <p>(d) A jurisdiction may dispose of specific types of organic waste that are subject to quarantine and meet the following requirements:</p> <p>(1) The organic waste is generated from within the boundaries of an established interior or exterior quarantine area defined by the California Department of Food and Agriculture for that type of organic waste;</p> <p>(2) The California Department of Food and Agriculture or the County Agricultural Commissioner determines that the organic waste must be disposed at a solid waste landfill and the organic waste cannot be safely recovered through any of the recovery activities identified in Article Two of this chapter;</p> <p>(3) The Jurisdiction retains a copy of the California Department of Food and Agriculture <b>or the County Agricultural Commissioner</b> approved compliance agreement for each shipment stating that the material must be transported to a solid waste landfill operating under the terms of its own compliance agreement for the pest or disease of concern.</p> <p><b>(4) The Department shall not count any organic waste subject to quarantine that is disposed toward jurisdiction waste disposal for compliance with any existing or future state waste disposal reduction or waste diversion compliance mandates.</b></p>	<p>measurements at high diversion facilities. The organic waste will still count as statewide disposal. Thank you for the comment. A change is not necessary because this was added in previously.</p>
3019	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18985.1 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>	<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</p>

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		<p>Proposed Regulatory Text and Recommended Changes/Revisions:            (7) If a jurisdiction allows generators subject to its authority to self-haul organic waste pursuant to Section 18988.1, <b>the jurisdiction shall require solid waste facility operators accepting organic material from the jurisdiction to provide</b> information regarding self-hauling requirements <del>shall be included in education and outreach material.</del></p>	<p>solid waste facilities. This change was made to provide the least burdensome approach and still achieve the required disposal reduction.</p>
3020	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>In Section 18992.1 (f), 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 there is no guarantee that the county and/or jurisdictions within will develop their own waste characterization study with quantities for digestate and biosolids, the Task Force recommends that CalRecycle allow a third means of estimating the disposal to assist in the capacity planning analysis; for example, reports from local wastewater treatment plants that quantify the tonnage (or percentage) of biosolids that are sent to land disposal.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:            (a) Counties, in coordination with cities and regional agencies located within the county, shall:            (1) Estimate the amount of all organic waste in tons that will be disposed by the county and jurisdictions within the county by:            (A) Multiplying the percentage of organic waste reported as disposed in the Department’s most recent waste characterization study by the total amount of disposal attributed to the county and each jurisdiction located within the county by the Recycling and Disposal Reporting System; or,            (B) Using a waste characterization study or studies performed by jurisdictions located within the county and applying the results of those studies to the total amount of disposal attributed to the county and each jurisdiction located within the county by the Recycling and Disposal Reporting System. Local studies may be used if the studies:            1. Are more recent than the Department’s most recent waste characterization study,            2. Include at least the same categories of organic waste as the Department’s most recent waste characterization study            3. Include a statistically significant sampling of solid waste disposed of by the jurisdiction conducting the study.  <b>(C) 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 one, or all, of the organic waste material types that must be analyzed for capacity planning purposes.</b></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>
3021	Clark, M., LA COUNTY SOLID WASTE	<p>The regulations should include a requirement on cities, regional agencies and edible food recovery organizations to respond to and provide the requested capacity</p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>

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	MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>data/information to counties or other applicable jurisdictions for edible food capacity planning purposes.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(b) In complying with this section, the county in coordination with cities and regional agencies located within the county shall consult with edible food recovery organizations and edible food recovery services regarding existing, or proposed new and expanded, capacity that could be accessed by the jurisdiction and its commercial edible food generators. <b>If a city, regional agency, or edible food recovery 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 or edible food recovery agency in the report it submits pursuant to Section 18992.3.</b></p>	
3022	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18993.1. The per capita procurement target was increased from 0.07 to 0.08 tons of organic waste per California resident per year. The Amendment to the Original January 2019 Initial Statement of Reasons (ISOR) was not updated to explain why the per capital procurement target is now 0.08 tons per resident per year. The ISOR should be updated to provide a justification for the increase in the procurement target, or the regulations should be revised to change the procurement target back to 0.07 tons per resident per year.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(b) Annually, the Department shall confirm and provide notice of the annual recovered organic waste 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 = <b>0.07</b> <del>0.08</del> tons of organic waste per California resident per year.</p>	<p>The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from CalRecycle’s Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.</p>
3023	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>The recovered organic waste products that a jurisdiction may procure to satisfy its procurement requirements should be expanded to include all recovered organic waste products from composting, anaerobic digestion, biomass conversion, and all other technologies determined to constitute a reduction in organic waste disposal. For example, the Task Force recommends that the procurement of all organic waste products produced from biomass conversion, such as transportation fuel, heating, and pipeline injection, should also satisfy a jurisdiction’s procurement target.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(f) For the purposes of this article, the recovered organic waste products that a jurisdiction may procure to comply with this article are:</p> <p>(1) Compost, subject to any applicable limitations of Public Contract Code Section 22150, that is produced at:</p> <p>(A) A Compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this Division; or</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 expanding “renewable gas” to include gas from biomass conversion, 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> <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</p>



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		<p>(B) A Large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that compost on-site. [NOTE: Digestate, as defined in Section 18982 (a) (16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</p> <p>(2) Renewable gas used for fuel for transportation, electricity, heating applications, or pipeline injection,</p> <p><del>(3) Electricity from biomass conversion</del></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) 21 diesel gallon equivalents, or “DGE,” of renewable gas in the form of transportation fuel.</p> <p>(B) 242 kilowatt-hours of electricity derived from renewable gas</p> <p>(C) 22 therms for heating derived from renewable gas</p> <p>(D) 27 therms for pipeline injection of renewable gas</p> <p><del>(E) 650 kilowatt-hours of electricity derived from biomass conversion</del></p> <p>(F) 0.58 tons of compost, or 1.45 cubic yards of compost.</p>	<p>determine the eligibility of the recovered organic waste products in the current regulatory proposal using publicly available pathways and conversion factors.</p>
3024	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<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. take enforcement action(s)} of non-local entities, federal agencies/facilities, and local education agencies with appropriate requirements of this Article. Although a local jurisdiction may educate non-local entities, federal agencies/facilities, universities/colleges and local education agencies (community colleges and school districts) of the requirements of this chapter, a local jurisdiction does not have the authority to enforce compliance on non-local entities, federal agencies/facilities, and local education agencies.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
3025	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18995.1. This section refers to “garbage accounts” for commercial businesses for which the jurisdiction must complete a compliance review. The regulations should define the term “garbage accounts” for clarity to allow jurisdictions to satisfy this requirement.</p>	<p>CalRecycle has revised Section 18995.1 (a)(1)(A)(1) in response to this comment. The text will be revised to aligned with definitions in other regulations.</p>
3026	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18997.2. Penalty Amounts</p> <p>The regulations should allow jurisdictions to provide hardship waivers to certain generators, property owners, or business owners to reduce the financial burden of the penalties. The hardship waivers would not in any way exempt a regulated generator, property owner, or business owner from subscribing to organic waste collection services and would only provide a partial or whole exemption from paying a financial penalty. The criteria for granting hardship waivers would be developed by local jurisdictions and approved by the Department.</p>	<p>A change to the regulatory text in not necessary. A jurisdiction has the discretion to include and consider factors in their ordinance/enforceable mechanism to determine a penalty amount, such as factors similar to those listed in Section 18997.3(d) used by the Department.</p>

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		<p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(b) Consistent with the requirements prescribed in Government Code Sections 53069.4, 25132 and 36900 the penalty levels shall be as follows:</p> <p>(1) For a violation classified as Level 1, the amount of the base penalty may be \$50-\$100 per offense:</p> <p>(2) For a violation classified as Level 2, the amount of the base penalty may be \$100-\$200 per offense:</p> <p>(3) For a violation classified as Level 3, the amount of the base penalty may be \$250-\$500 per offense.</p> <p><b>(4) For any violation classified as Level 1, Level 2, or Level 3, a generator, property owner, or business owner may request a financial hardship waiver from the jurisdiction imposing the penalty.</b></p>	
3027	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Section 18997.3. Department Penalty Amounts</p> <p>The titles of Tables 6, 8, 9, and 10 should be revised to clarify whether the penalties in these tables would be imposed by jurisdictions on applicable entities, by CalRecycle on the appropriate listed entity, OR on jurisdictions for failing to enforce the requirements on the applicable entities, such as haulers, organic waste generators, property owners, etc. This issue needs to be addressed by the next formal draft of the proposed regulations.</p>	A change to the regulatory text is not necessary. Section 18996.9 allows the Department to take enforcement action against entities. Section 18997.2 are the penalties issued by the jurisdiction Section 18997.3 are issued by the Department.
3028	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>Pursuant to Section 41850 (a) of the Public Resources Code, SB 1383 authorizes CalRecycle to impose penalties of up to \$10,000 per day upon jurisdictions for failure to comply with regulations. However, as currently written, Section 18997.3 of the second draft of the proposed regulations appears to provide for CalRecycle's penalties to be <b>concurrent and cumulative</b> (emphasis added). For example, if CalRecycle finds a jurisdiction in violation of several requirements (let's assume nine) of the proposed regulations and each violation is subject to a maximum stipulated penalty of \$10,000 per day, then the jurisdiction could be subject to a penalty of \$90,000 per day. This is not consistent with state law (PRC, Section 42652.5). Therefore, Section 18997.3 needs to be revised to include provisions which specifically prohibit CalRecycle from imposing cumulative penalties, regardless of the number of violations by a jurisdiction, while limiting the amount of penalties that CalRecycle is allowed to impose on a jurisdiction for failure to comply with any or all requirements of the proposed regulations to a maximum amount of \$10,000 per day.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p><b>(f) Penalties imposed on a jurisdiction for violations of the regulations as stipulated in the Article 16 are not cumulative, regardless of number of penalties at a given time. Additionally, the maximum penalty amount that the Department is authorized to impose on a jurisdiction for failure to comply with any or all requirements of this Chapter is limited to an amount not to exceed \$10,000 per day.</b></p>	CalRecycle has revised Section 18997.3 in response to this comment. The change is necessary to explain that penalties shall not exceed \$10,000 a day pursuant to PRC Section 41850.

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3029	Clark, M., LA COUNTY SOLID WASTE MANAGEMENT COMMITTEE/IWM TASK FORCE	<p>The intent of Subsection 18997.3 (e) is unclear. The Task Force assumes that the intent is to provide a mechanism to apply partial fines on a jurisdiction for not meeting the full procurement target of the proposed regulations. However, this needs to be clarified in order to avoid the misperception that the regulation is establishing a <b>daily procurement target/expectation</b> (emphasis added). It is unreasonable to expect that jurisdictions in state purchase organic waste byproducts (fuel, RNG, compost, etc.) on a daily basis and thus CalRecycle needs to establish a daily penalty if a jurisdiction fails to meet its expected/calculated daily procurement target. Additionally, due to lack of adequate infrastructure, we believe that the subject proposal should be deleted until sometime in the future pending market and infrastructure development. As an alternative, CalRecycle can consider the following:</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(e) For violations of the Recovered Organic Waste Product Procurement requirements in Section 18993.1, where a jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its <b>annual</b> recovered organic waste product procurement target, the Department shall determine penalties based on the following:</p> <p>(1) The Department shall calculate the jurisdictions daily procurement target Equivalent for <b>each jurisdiction</b> by <del>dividing the procurement target by 365 days.</del></p> <p>(2) The Department shall determine <b>each jurisdiction annual</b> <del>the number of days a jurisdiction was in compliance with the annual procurement target by dividing the total amount of recovered organic waste products procured by the daily procurement target equivalent.</del></p> <p><del>(3) The Department shall determine the number of days a jurisdiction was out of compliance with the procurement target by subtracting the number of days calculated in (2) from 365 days.</del></p> <p><del>(4 3) The penalty amount shall be calculated by determining an appropriate penalty level based on the factors in subdivision (d), above., and multiplying that number by the number of days determined according to subsection (e)(3), above.</del> The penalty amount shall not exceed \$10,000 per <del>day</del> year.</p>	<p>A change to the regulatory text is not necessary. Section 18993.1(a) states that 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. Section 18997.3(d) was added to the regulation text to allow a method to issue penalties on a per day basis consistent with the limitations on penalty amounts in SB 1383 for a procurement target that is measured on a per year or annual basis to be fair, equitable, and avoid excessive penalties. These penalty provisions should not be misunderstood as a per day procurement target.</p>
6215	Clifford, G., Athens Services	<p>Currently Proposed material recovery fines language:</p> <p>(2) Use as Alternative Daily Cover or Alternative Intermediate Cover at a landfill-</p> <p>(B) If as a part of the approved process pursuant to Section 20690 or 20700 of Title 27 division 2,  ...the operator demonstrates that approved material recovery fines that will be used for cover material do not include organic waste, the use of material recovery fines shall not constitute disposal of organic waste.</p> <p>Alternative suggestions:</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>

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		<p>...the operator demonstrates that approved material recovery fines that will be used for cover material is reasonably free of organic matter, the use of material recovery fines shall not constitute disposal of organic waste.</p> <p>...the operator has taken all reasonable measures to remove/reduce the organic matter from the approved material recovery fines, the use of material fines for cover shall not constitute disposal of organic waste.</p>	
6216	Clifford, G., Athens Services	<p>RE: Currently Proposed material recovery fines language: To inflexibly mandate that all material fines with any amount of organics used for cover constitute disposal is to disregard the realities of solid waste processing and to significantly jeopardize the prospects of meeting the 50% and 75% targets.</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>
6217	Clifford, G., Athens Services	<p>We are also disappointed to see no change in CalRecycle’s Sec. 17409.5.8 the key language in which 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>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>
6218	Clifford, G., Athens Services	<p>Another area in which flexibility is critical is the measurement of organic content and minimum standards to be applied. As we have stated before the 10% ceiling is in today’s technology an impossible standard that will continue to be so in 2022. In addition to reevaluating that standard we would suggest a phased-in approach with a higher minimum content in 2022 gradually decreasing to whatever the ultimate standard is determined to be for 2025. We again point out that the law did not contemplate a facility level mandate so flexibility is essential.</p>	<p>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.</p>
6219	Clifford, G., Athens Services	<p>As we have previously asserted flexible contamination standards will be critical to: Meeting the 50% and 75% GHG targets and keeping the regulations within the bounds of the legal authority given under SB 1383 of 2016;</p>	<p>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</p>

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		<p>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>	<p>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>
8079	Collins, Andrea Natural Resources Defense Council	<p>Section 18982 Definitions  (18) <b>"Edible food" should not include "that is fit to be consumed" in its definition</b> because food is inherently perishable and all edible food will become unfit to be consumed with the addition of just a little bit of time. As it currently is written, there is a potential loophole for generators to avoid compliance. Section (B) already provides for food which is not fit to be consumed, making this phrase unnecessary.</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 to the following:  "Edible food" means food intended for human consumption that is fit to be consumed."  (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.  A number of commenters expressed concerns about including the language "that is fit to be consumed" in the definition. They argued that the language is problematic because it implies that food needs to be fit for consumption at a particular point in time. Generators could wait until a food is no longer fit for consumption to avoid compliance. CalRecycle agrees with these comments and removed the language "that is fit to be consumed" from 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>
8080	Collins, Andrea Natural Resources Defense Council	<p>(18A and elsewhere) <b>"Recovered" should be defined in this section</b>, as this term is used to mean rescued, recycled, and other actions, and it is not always clear which sense is intended throughout the document.</p>	<p>The term recovery is defined, and where the term is used in the past tense, it is understood to have the same meaning. "recovery" or "recovered" encompasses multiple activities for the purpose of this regulation. Specifically the regulations define the term: "Organic waste recovery activities" or "recovery" means any activity or process described in Section 18983.1(b). Section 18983.1(b) delineates the activities that constitute "recovery."</p>

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8081	Collins, Andrea Natural Resources Defense Council	(28) This definition likely includes a typo. <b>“Green” in the second sentence should be replaced by “gray.”</b>	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say ‘gray’ instead of ‘green.’
8082	Collins, Andrea Natural Resources Defense Council	(75) Suggest removing the qualifier that the pile must be <del>“on the street in front of”</del> and instead that the pile must be <b>“adjacent to”</b> the house or place of business to allow for collection from alleyways, garages, and alternative collection locations.	Comment noted, a change is not necessary, “adjacent” is vague and could be broadly interpreted creating potential nuisance issues, alleyways are considered streets.
8083	Collins, Andrea Natural Resources Defense Council	Section 18984.3 Unsegregated Single-Container Collection Services These regulations should not permit new mixed waste collection and processing because it is not ecologically optimal. Earlier language had a sunset provision which should remain.	Take out 8083 from second comment period in Collections 136 The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
8084	Collins, Andrea Natural Resources Defense Council	Section 18984.12 (d) Elevation Waivers Elevation should not be a permissible reason for a waiver. There are plenty of examples of high-elevation jurisdictions which have successfully implemented organics recycling programs, including Boulder, CO ( <a href="https://bouldercolorado.gov/zero-waste/universal-zero-waste-ordinance">https://bouldercolorado.gov/zero-waste/universal-zero-waste-ordinance</a> ). Segregating food scraps does not result in more generation of food scraps; if food scraps are already being managed through trash services, they should be able to be incorporated into separate organics collection as well.	CalRecycle must compose the most cost effective and least burdensome regulations to achieve the organic waste diversion and greenhouse gas reduction goals established in SB 1383. 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. Food waste separation and recycling would pose public safety issues that would be extremely costly for generators in those jurisdictions to mitigate. The elevation waiver is necessary to prevent those extreme costs as well as the potential threats to public safety. 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.
8085	Collins, Andrea Natural Resources Defense Council	Section 18986.1 (b) Non-Local Entities Requirements <b>Please clarify that placing organic waste containers in restrooms is permitted, though not required.</b> (Many jurisdictions are already providing organic waste containers in restrooms for the collection of paper towel waste.) Furthermore, paper products are organic recyclables and should be collected separately from other organic wastes if not food soiled, as recycling paper products is ecologically preferable to composting or digesting them. The term “non-organic recyclables” is confusing because it does not incorporate paper. This confusion regarding the desirability of directing paper to recycling whenever feasible appears throughout the document.	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. 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.
8086	Collins, Andrea Natural Resources Defense Council	Section 18991.3 Commercial Edible Food Generators Commercial edible food generators which are unable to contract with a food recovery organization due to product quality concerns should be required to submit proof of reduction practices or pay a fee for disposal. As the regulations are currently written, there is no option for a generator which has surplus food that is deemed unacceptable to available food recovery organizations (either due to nutritional or safety concerns).	With regard to the comment about food not being able to be recovered due to safety concerns, CalRecycle would like to emphasize that nothing in SB 1383's regulations requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code. This is specified in the regulations in the definition of "edible food." Edible food that does not meet all food safety requirements absolutely should NOT be recovered for human consumption.

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			<p>With regard to the comment about food not being able to be recovered due to the food not meeting minimum nutrition standards, commercial edible food generators are not exempt from compliance if they only have “unhealthy” edible food available for food recovery. 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 certain types of food be recovered. The FSOR clarifies that the expectation for commercial edible food generators is that they establish a contract or written agreement with food recovery organizations or food recovery services that are willing and capable of recovering the maximum amount of their edible food that would otherwise be disposed. For example, if a commercial edible food generator contracts with a food recovery organization that will recover all of the generator’s produce, but will not recover the generator’s baked goods, then the generator must establish a contract or written agreement with an additional food recovery organization or service willing to recover the generator’s baked goods.</p>
8087	Collins, Andrea Natural Resources Defense Council	<p>Section 18991.5 Food Recovery Services and Organizations Food recovery organizations and services should be required to maintain records and report to the jurisdiction the quantity in pounds of food that cannot be redistributed to the public for consumption, as well as reporting total pounds of organic waste sent to recycling and to disposal.</p>	<p>A text change was not made in response to this comment because a previous draft of the regulations included the requirement that food recovery organizations and services maintain records of food they receive from commercial edible food generators, but ultimately dispose of. Comments from key stakeholders such as California Association of Food Banks strongly urged CalRecycle to remove the requirement from the regulations as it would be far too difficult and expensive for them to track. For these reasons, the requirement was removed from the regulations and was not added back in.</p>
8088	Collins, Andrea Natural Resources Defense Council	<p>Section 18992.1 Organic Waste Recycling Capacity Planning Estimates by the jurisdiction should also include estimates of reductions due to preventing food from becoming waste as well as due to rescuing food for redistribution. If enhanced prevention and rescue are not accounted for, the needed capacity for recycling could be over-estimated.</p>	<p>While CalRecycle appreciates the intent of the comment, making such a change exceeds CalRecycle’s authority; in addition, the regulations cannot have source reduction requirements stronger than what is already included in the education/outreach requirements.</p>
8089	Collins, Andrea Natural Resources Defense Council	<p>Section 18993.1 Procurement of Recovered Organic Waste Products Renewable natural gas should only qualify if it is derived from processes like anaerobic digestion where the digestate is used beneficially and not landfilled. Any energy extraction process in which solid and liquid residues are disposed rather than used beneficially for nutrient and/or organic matter recycling back to soil should not be eligible for renewable status. Electricity from "biomass conversion" should not qualify as a recovered organic waste product. This qualification opens the door for waste to energy processes/products to qualify as recycling, which should be prohibited.</p>	<p>CalRecycle disagrees with adding further requirements to limit procurement to renewable gas derived from facilities that do not landfill digestate. CalRecycle has already added section 18993.1(h)(2) to address biosolids disposal from POTWs. Further limitations on procurement from anaerobic digestion facilities would be overly burdensome for jurisdictions and would not help meet SB 1383 goals. CalRecycle disagrees with the comment’s recommendation to eliminate electricity from biomass conversion. The SB 1383 mandate is to recover organic waste that would be disposed, therefore it is consistent with statute to include biomass conversion facilities as long as the feedstock is received from solid waste facilities, which is described in section 18993.1(i).</p>
8090	Collins, Andrea Natural Resources Defense Council	<p>Section 18998. Applicability <b>“Performance-based source-separated organic waste collection service” is not defined; add explanation as to what this entails.</b> (The earlier definition only directs readers to this section, which does not provide any further explanation.)</p>	<p>Comment noted. SB 1383 statutory language requires California to achieve strict organic waste reduction targets. Paper is a type of organic waste and constitutes a significant portion of organic waste disposal, and therefore not including it the recovery efficiency or contamination standards would ignore a significant portion of the organic waste disposal stream and compromise the state’s ability to achieve the organic waste reduction targets. With regard to textiles and carpet, 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</p>

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			<p>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>
4531	comment number 4531 skipped	comment number 4531 skipped	
4532	comment number 4532 skipped	comment number 4532 skipped	
4533	comment number 4533 skipped	comment number 4533 skipped	
6196	Cote, K., City of Fremont	<p>Section: 18984.1. Three-container Organic Waste Collection Services</p> <p>Proposed Language: Compostable plastics may be placed in the green container if the material meets the ASTM D6400 standard for compostability and the contents of the green containers are transported to Compostable Material Handling Operations or Facilities or In-vessel Digestion Operations or Facilities that have provided written notification to the jurisdiction that the facility can process and recover <b>or remove</b> that material. The written notification shall have been provided within the last 12 months.</p> <p>Rationale: Even though ASTM D6400 compostable plastics meet the compostability standards, there may be remnants that do not completely break down during the composting process and will need to be removed.</p>	<p>Comment noted. A change to the text is not necessary as the regulations adequately address the use of plastic bags used in the green containers. 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.</p> <p>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).</p> <p>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.</p>
6197	Cote, K., City of Fremont	<p>Section: 18984.5. Container Contamination Minimization</p> <p>Proposed Language: A jurisdiction may meet its container contamination minimization requirements by conducting a route review for prohibited container contaminants on randomly selected containers <b>or previously non-compliant generators</b> in a manner that results in all collection routes being reviewed annually.</p> <p>Rationale: Commercial accounts are initially chosen randomly for inspection under StopWaste’s MRO inspection program. In order to ensure material quality however, accounts with a history of non-compliance are subject to follow-up inspections and more frequent inspections in the future. As long as a city ensures each commercial route meets the required inspection schedule, the non-random selection of some accounts should count towards meeting the overall inspection requirements.</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>
6198	Cote, K., City of Fremont	<p><b>Proposed Language:</b> A jurisdiction <b>or designee</b> may grant one or more of the following types of waivers to a generator of organic waste:</p>	<p>JPA’s are included the definition of ‘Jurisdiction’ in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.</p>



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		<p><del>(c) Notwithstanding Section 18981.2 the authority to issue a waiver authorized by this section cannot be delegated to a designee.</del></p> <p>Rationale: Fremont requests adding “or designee” in item “a” and striking item “c” as shown above. These regulations place immense demands on a jurisdiction’s limited resources. Cities should not be prohibited from using a regional agency such as StopWaste or their contracted hauler, in order to conduct this task more effectively.</p>	
6199	Cote, K., City of Fremont	<p>Section: 18995.2. Implementation Record and Recordkeeping Requirements</p> <p>Proposed Language: The Implementation Record shall be stored in one centrallocation, physical or electronic, 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. <b>A designee can store portions of the Implementation Record, as long as the jurisdiction is still able to provide the Department with access to the Implementation Record within ten business days.</b></p> <p>Rationale: To increase efficiency, StopWaste has taken on aspects of generator compliance for the member jurisdictions. This involves the data management and storage of thousands of letters and photographs, which would be incredibly difficult,time-consuming and redundant to transfer to each jurisdiction.</p>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
6200	Cote, K., City of Fremont	<p>see letter</p> <p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>Proposed Language; <b>add:</b></p> <p><b>e(3) Require, through enforcement of the Model Water Efficient Landscape Ordinance, that a landscape project applicant procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction.</b></p> <p><b>f(4) Mulch derived from organic materials</b></p> <p>Rationale: We suggest adding the above procurement options to provide implementable compliance alternatives for jurisdictions. Fremont acknowledges that CalRecycle added renewable gas as an option in the second formal draft; however, for a jurisdiction like Fremont, this would require substantial funds, planning and infrastructure such as buying an entirely new vehicle fleet to add them to the procurement mix—making the 2022 deadline unreachable. Hence, compost is the only current product that can be applied to the organic waste product procurement target, and Fremont’s obligation—27,000 cy (\$675,000)—far exceeds what the City can effectively use. The target is a per capita calculation, but cities have vastly different amounts of land suitable to compost application. Requiring such a large amount of compost procurement could exhaust organics processors’ supplies, burden cities with far more compost than they can use that they will need to transport long distances out of their cities, and leave private industry without the compost they need. It is unlikely that this strict requirement would adequately match supply and demand even though it is based on projected supply, because</p>	<p>Regarding MWELO, CalRecycle has revised the previous draft of the proposed regulations to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELO.</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>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.</p>

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		many factors such as facility location, jurisdiction contracts, and established purchasing relationships affect who is buying and selling.	
6201	Cote, K., City of Fremont	By enforcing MWELo, the jurisdiction would be causing organic waste products to be used at their behest satisfying the intent of the regulation while more accurately matching supply and demand.	Thank you for the comment. The comment is in support of current language.
6202	Cote, K., City of Fremont	Also, it would be beneficial if mulch made from organic materials was added as a recovered organic waste product that can count towards the organic waste product procurement target. It is a product with many environmental benefits and its usage keeps methane-producing organics out of landfills.	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
1000	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	The 15-day comment period for the changes and additions to the Proposed SB1383 regulations was stated as non-substantive. The Orange County Local Enforcement Agency (LEA) strongly disagrees, Section 18083(9) and (c) were brand new and not vetted or discussed with the LEAs prior to June 17, 2019.	Comment noted. CalRecycle provided the minimum comment period required by the Administrative Procedure Act.
1001	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	Section 18083(c)(9) This should have a date similar to the dates in the rest of SB1383 of January 1, 2022 since most of the reporting and implementation of SB1383 is January 1, 2022. The LEA's should not have observation and verification requirements as part of their responsibilities until the implementation of the regulations on the jurisdictions, generators, haulers and businesses has begun.	A change to the regulatory text is not necessary. Even though the solid waste facility regulations that require LEA oversight are being adopted under Public Resources Code 43020/43021/40502 and not under SB 1383 authority, and the sections adopted under the SB 1383 authority will go into effect later, operators may choose to implement the programs prior to the effect date. In which case, LEAs would review the records that are available at the time of their monthly inspection and help identify any issues to assist operators modify their process in time to comply with the requirements when they become operative.
1002	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	Section 18083(c)(1) The LEAs should not have to identify land application sites based on records from Section 18083(a)(9) until the reporting from regulated community has started i.e. January 1, 2022.	CalRecycle has deleted Section 18083(c) in response to comments.
1003	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	Section 18083(c)(1)(A): a. If LEA are going to conduct inspections, are these sites going to be given SWIS numbers and is CalRecycle going to supply new inspection forms? b. Most land application sites are not solid waste facilities or operations, do these regulations make them regulated sites?	CalRecycle has deleted Section 18083(c) in response to comments.
1004	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5 (a)(1)(A) and (B) The sampling criteria is unclear and needs clarification. Is the 10 consecutive days for facilities and operations accepting less material? If so, this needs to be clarified.	A change to the regulatory text is not necessary. This sampling period is for all Transfer/Processing Facilities and operations that are not exempt from these requirements. This includes facilities and operations that accept less material.
1005	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5 (a)(1)(A) and (B) Why 10 consecutive days? Why not 3 or 5? What is the reason? This requirement will require the operator to have enough staff to conduct this sampling for half of an operating month, 4 times a year.	A change to the regulatory text is not necessary. 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

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			<p>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 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>
1006	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5 (a)(1)(A) and (B) What is considered a “measurement” for LEA oversight? Is it one-200-lb sample, on day, out of the 10 day sampling period?	Comment noted. For the purpose of EA oversight, a measurement would be one sample (at least 200lbs) taken out of the 10-day operating period and observing the protocol as described in sections. If it is determined that the results do not accurately reflect records, an EA may, with concurrence by the Department, increase the frequency of measurements and/or revise the protocol as necessary.
1007	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5 (a)(1)(A) and (B) Where did the required 200-lb sample come from? Why not 50-lb? A 50-lb sample seems more manageable, in representing and sampling time.	A change to the regulatory text is not necessary. 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. Based on this expert information, a text change is not necessary.
1008	Cross, Kathryn Orange County Solid Waste Local Enforcement Agency	6. Section 17409.5.12 Transfer/Processing EA Verification Requirements <b>This requirement should reflect the rest of SB1383 text and state that “After January 1, 2022, the operator shall.”</b> The LEA should not be observing measurements until the operators, generators and jurisdictions are implementing the program.	A change to the regulatory text is not necessary. Even though the solid waste facility regulations that require LEA oversight are being adopted under Public Resources Code 43020/43021/40502 and not under SB 1383 authority, and the sections adopted under the SB 1383 authority will go into effect later, operators may choose to implement the programs prior to the effect date. In which case, LEAs would review the records that are available at the time of their monthly inspection and help identify any issues to assist operators modify their process in time to comply with the requirements when they become operative.
1062	Cushing, Stephanie, City and County of San Francisco Local	Section 18083(c) How is “significant volume” of compostable material defined?	CalRecycle has deleted Section 18083(c) in response to comments.

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	Enforcement Agency (LEA)		
1063	Cushing, Stephanie, City and County of San Francisco Local Enforcement Agency (LEA)	Section 18083(c) Pursuant to 14 CCR §17852(a)(24.5)(B), the subdivision (a)(24.5) does not apply to parcel of land 5 acres or less in size. Is it LEA's responsibility to identify the size of the land to determine whether subdivision (a)(24.5) would be applicable?	CalRecycle has deleted Section 18083(c) in response to comments.
1064	Cushing, Stephanie, City and County of San Francisco Local Enforcement Agency (LEA)	Section 18083(c) If LEA finds the land application site is not compliant with 14 CCR § 17852(a)(24.5), would LEA hold the land application site owner or the solid waste operator who provided the compostable material accountable? Who is responsible for remediating the violation?	CalRecycle has deleted Section 18083(c) in response to comments.
1065	Cushing, Stephanie, City and County of San Francisco Local Enforcement Agency (LEA)	Section 18083(c) A land application site may commingles compostable materials from multiple jurisdictions' solid waste sites prior to spreading materials on land. In such circumstance, how should LEA verify measurement requirement?	CalRecycle has deleted Section 18083(c) in response to comments.
1066	Cushing, Stephanie, City and County of San Francisco Local Enforcement Agency (LEA)	Section 18083(c) If a solid waste site sells final compostable materials to a broker who then distributes the materials to land application sites, is the solid waste site still subject to providing address, parcel number, or other equivalent indicator of physical location of each property receiving compostable material for land application?	CalRecycle has deleted Section 18083(c) in response to comments
1067	Cushing, Stephanie, City and County of San Francisco Local Enforcement Agency (LEA)	<b>Section 180183(c) should be removed from Article 2.2 LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities.</b> This section requires LEA to spend specific amount of time and effort to verify measurements at land application sites that are additions to the SWIS inventory. The amount of time and effort to perform verification would take away resources from LEA focusing on the less compliant facilities which may pose a more significant impact on the health and safety of the environment. SF LEA recommends removing verification of compostable materials at land application sites and instead requiring verification to be conducted at solid waste sites where materials are processed, this would eliminate the ambiguity of person responsible should there be a violation.	CalRecycle has deleted Section 18083(c) in response to comments
3130	Darling, G., H2o Consulting	Include biomass conversion in Section 18993.1(f)(3), which is critical to meet the 75 percent diversion requirement of H&S Code section 39730.6(a)(2)	Electricity from biomass conversion has been included in the proposed regulatory text. Regarding products beyond electricity from biomass conversion, CalRecycle disagrees with this approach. These technologies, such as thermal and noncombustion thermal conversion technologies, are

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			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.
3131	Darling, G., H2o Consulting	<p>Use the definition of non-combustion thermal conversion technologies (including gasification and pyrolysis) from PRC 40106 for the implementation of SB 1383. Such technologies will help the state meet the SB 1383 mandates</p> <p>Prior to starting a consulting company focused on innovative sustainable water and energy projects, I dedicated 34 years to public service, the last thirteen and a half years as the General Manager of Delta Diablo in Antioch. Delta Diablo provides wastewater and water recycling services to a population of 200,000. Under my leadership nineteen Bay Area agencies came together to focus on maximizing the energy potential from biosolids and minimizing wastewater treatment plant's GHG footprints. A technology that rose to the top of a global solicitation was gasification/pyrolysis. Calculations were completed that showed that if biosolids were mixed with drier organics being managed by solid waste haulers that included woody waste from construction debris, food waste, forestry/yard slash, paper and many other organic waste streams, gasification/pyrolysis could provide enough energy to not only take a wastewater treatment plant off the grid (thereby reducing its GHG footprint more than 85%), a wastewater treatment plant operator in partnership with a solid waste hauler could become net energy producers.</p> <p>In 2016, Delta Diablo entered into a partnership with a local solid waste hauler to develop the East County Bioenergy Project. The concept was to accept the landfill diverted food waste from the solid waste hauler and place that in the anaerobic digestors that the District has in operations and then mix the increased biosolids from the digestors with the drier organic waste streams from the solid waste hauler such as construction debris, yard waste, paper, etc.; and feed the mixed stream in a gasification/pyrolysis system to ultimately generate electricity that could be sold to the grid through the state mandated PG&amp;E BioMatt program.</p> <p>Unfortunately, this outstanding bioenergy project ran into roadblocks under current CalRecycle regulations and remains stalled. The bullets outlined above represent the known roadblocks. There may be more, but those are a start. Creating the opportunities for the wastewater agencies to partner with the waste haulers seems like "low hanging fruit" that CalRecycle can assist in. Just focusing regulations and incentives on anaerobic digestion and composting will require many more compost facilities. CalRecycle estimates the need for 75 to 100 new or expanded compost facilities in CA, which will be a big challenge to site far enough away from metropolitan areas (see: <a href="https://www2.calrecycle.ca.gov/PublicNotices/Documents/9215">https://www2.calrecycle.ca.gov/PublicNotices/Documents/9215</a>)</p> <p>Another very good reason to open up non-combustion thermal conversions is that with proper odor control they can be placed nearer to or at the source of organic waste stream hubs like wastewater treatment plants or MSW operating facilities</p>	<p>CalRecycle concurs that it is important to maintain 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 gas reductions that meets or exceeds the baseline of 0.30 MTCO2e per short ton. Currently, only the technologies and activities specified in section 18983.1(b) have been verified to meet this baseline. However, to maintain flexibility and to consider all projects that are effectively equivalent to the baseline of 0.30 MTCO2e and reduce the disposal of organic waste, the draft regulation's includes section 18983.2, Determination of Technologies That Constitute a Reduction in Landfill Disposal. This section provides a pathway for including additional activities and technologies such as the one referenced in your comment.</p>

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		<p>and thus significantly reduce the truck mileage and the GHG footprint associated with current practices of anaerobic digestion followed by land application or composting. The Bay Area group referenced above calculated that the agencies were trucking wet biosolids the equivalent of over 1 million miles per year to land application sites, compost facilities or landfills. Even with state-of-the-art centrifuges or belt presses, the water content of the biosolids leaving a wastewater treatment plant is often 75% or greater. Hauling mostly water long distances using trucks fueled by diesel should not be considered a long-term sustainable practice. Non-combustion thermal conversion processes can reduce the volume of biosolids by 90% (the process drives all the water out of the biosolids) and produce a valuable biochar. Additionally, the heat in the process (typically greater than 1500-degree Fahrenheit) is expected to break down many compounds of concern such as medicines, pesticides, PAHs, PFAS, etc.</p>	
3132	Darling, G., H2o Consulting	Assure that nothing in AB 1126 itself precludes non-combustion thermal conversion technologies being used at EMSW facilities and allow operators to manage the moisture content of all organic feedstocks in the most effective way to maximize the energy output and minimize GHG footprints	Comment noted. This rulemaking does not implement AB 1126 nor does it regulate thermal conversion technologies at EMSW facilities.
3133	Darling, G., H2o Consulting	Expand end uses for biomass conversion to be consistent with the proposed end uses for gas from anaerobic digestion	<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 expanding “renewable gas” to include gas from biomass conversion, 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>
8038	Davis, John Mojave Desert & Mountain Recycling	Container color definitions all specify that the lid may be a specific color but that “Hardware such as hinges and wheels on a green container may be a different color”. The body color isn’t mentioned. <b>Please clarify the intent for body colors, either in definitions or in Article 3.</b>	CalRecycle has revised the definitions of the containers to be consistent with each other.
8039	Davis, John Mojave Desert & Mountain Recycling	The Jurisdictions definition includes this sentence: “A city or county, or a city and county, <b>or a special district</b> 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.” Special districts are not included in the last phrase, and should remain ultimately responsible for compliance as well.	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. To clarify, nothing in this definition is intended to override the provisions of the Joint Exercise of Powers Act (Gov. Code Sections 6500 et seq.), state law governing districts (Gov. Code Sections 58000 et seq.) or be construed in any way that would alter the legal relationship (statutory, contractual or otherwise) between a city, county, or city and county and a JPA or special district. It is intended that the obligations in this chapter undertaken by a special district or a JPA will be the responsibility of the special district or JPA and those entities would be subject to any enforcement action. For areas of a jurisdiction that are subject to these regulations that are not within the authority of a special district or JPA, compliance with these regulations would remain the ultimate responsibility of the city, county, or city and county.

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8040	Davis, John Mojave Dessert & Mountain Recycling	The Lifecycle GHG emissions definition seems only to focus downstream on end-of-life emissions. If the intent is to consider full lifecycle emissions, please clarify the role for upstream emissions analysis such as production or use offsets.	In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to “lifecycle GHG emissions” for the specific technology or process submitted under Section 18983.2. Staff added a definition for “Project Baseline” to section 18982 (a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2. “GHG benefits” and “production or use offsets” are different ways of framing GHG emissions reductions. Since these are included in the project baseline emissions, they are therefore included in the GHG emissions reduction that is calculated as described above.
8041	Davis, John Mojave Dessert & Mountain Recycling	Special districts are included in the “Non-local entity” definition, and included as a “Jurisdiction” if it provides solid waste collection services. This places additional requirements on special districts that are also jurisdictions. Please consider the necessity for treating special districts as both, and consider specifying that special districts that are jurisdictions are not non-local entities.	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.
8042	Davis, John Mojave Dessert & Mountain Recycling	Food-soiled paper is only addressed in elevation waiver context. <b>Please include language clarifying that food-soiled paper may be placed in gray rather than green containers if the organics processing facility receiving the community’s material provides written verification that it does not accept that material.</b> Such food-soiled paper shall not be considered organic waste when complying with the organic waste content recovery requirements specified in Section 18984.3 or for determining facility recovery requirements per Section 17409.5.1.	The exclusion of food-soiled paper in the elevation waiver is due to health and safety reasons and this request is not based on that factor. Instead the request is to exclude all food-soiled paper from the definition of organic waste because some facilities are not able to take this material. The regulations allow food-soiled paper to be placed in a gray container in a two-container system because the material is being processed at a high diversion organic waste processing facility. Regarding the request to not consider organic waste to be organic waste, CalRecycle does not believe this recommendation is appropriate. A very short list of select types of organic waste that are difficult or hazardous to recover and comprise a small portion of the organic waste stream are not required to be factored into contamination monitoring or recovery efficiency. This is not the case with paper which is a significant portion of the waste stream, and food soiled paper which is generally compostable.
8043	Davis, John Mojave Dessert & Mountain Recycling	Please clarify the intent for hazardous wood waste collection. Hazardous wood waste is prohibited from collection in three and two container systems as written, but is not prohibited in single-container systems. Please consider allowing hazardous wood waste in all gray containers.	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the ‘organic lumber’ is organic waste and will be subject to the recycling requirements in Article 3.

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8044	Davis, John Mojave Dessert & Mountain Recycling	Container labeling now includes language that “Labels shall clearly indicate items that are prohibited container contaminants [sic] for each container.” While a general category or primary list is possible, including all items seems impossible. For example “food” should be prohibited in a blue cart, but listing all food items is impractical.	<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> <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>



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			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.
8045	Davis, John Mojave Desert & Mountain Recycling	Please consider focusing on items or materials categories that are to be included in a container, rather than excluded. Much social marketing research verifies that negative messaging confuses recipients and reinforces undesired behavior.	Jurisdictions can provide this type of information in their educational materials.
8046	Davis, John Mojave Desert & Mountain Recycling	The linguistic accessibility requirement sets a threshold based on speaking English “less than very well.” Please provide a citation for that standard is codified, or otherwise provide a definition.	The text regarding linguistic outreach requirements is linked to the requirements of Section 7295. The definitions and provisions governing that section of law shall apply. Government Code 7295 states: “Any materials explaining services available to the public shall be translated into any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. The determination of when these materials are necessary when dealing with local agencies shall be left to the discretion of the local agency.”
8047	Davis, John Mojave Desert & Mountain Recycling	<b>The organic procurement requirement should include mulch as well as compost.</b>	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
8048	Davis, John Mojave Desert & Mountain Recycling	The organic procurement requirement limits fuel, electricity and gas to a jurisdiction’s prior year procurement. Please include a reasonable limit for compost and mulch procurement, based on maintained public landscape areas. Compost give away is not a sufficient approach to move thousands of unneeded tons annually.	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 proposed method for basing procurement requirements on a jurisdiction’s “maintained public landscape areas” because it is prohibitively burdensome to verify. Allowing a jurisdiction to self-report public landscape areas and then estimate compost and mulch use without any reference dataset to back it up will create enforcement problems. Furthermore, this approach would make it less likely for a jurisdiction to reduce their procurement mandate.
8049	Davis, John Mojave Desert & Mountain Recycling	Please confirm that compost facility operators support the proposed jurisdiction procurement requirements for their product. Markets are not lacking for good quality compost, but jurisdiction intervention in supply and pricing certainly will disrupt those markets.	The procurement requirements are designed to build markets for recovered organic waste products, including compost, which is likely to benefit facility operators. It is unclear what is meant by “jurisdiction intervention in supply and pricing”, as the draft regulations do not mandate pricing or supply levels for compost.
8050	Davis, John Mojave Desert & Mountain Recycling	Consider requiring compost and mulch specification for local landscape maintenance, rather than setting an unrealistic and unneeded procurement standard.	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

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			public and private landscape construction to use compost and mulch, which is already addressed in MWELo provisions in the California Code of Regulations,. 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.
8051	Davis, John Mojave Desert & Mountain Recycling	Please consider the lack of local demand when setting jurisdiction procurement violation penalties.	A change to the regulatory text is not necessary. The requirement to procure a prescribed amount of organic waste or renewable gas derived from recycling organic waste represent a significant opportunity to increase the demand for these products without upsetting existing markets. If a jurisdiction is unable to procure the required amount and faces a penalty, Section 18997.3(d) allows factors that may be used to determine the penalty amounts, including the nature, circumstances and severity of the violation. In addition, 18993.1(j) is designed to deal with situations where a procurement target exceeds demand.
8052	Davis, John Mojave Desert & Mountain Recycling	The current draft regulations allow local characterizations for planning purposes so long as they "are more recent than the Department's most recent waste characterization study." This limitation precludes effective local planning based on actual demand. For example High Desert communities generate far less landscape waste than coastal communities, and statewide characterizations thus overstate High Desert organic material generation. A local characterization that more accurately demonstrates generation also supports appropriate processing capacity. Once that capacity is secured there is no benefit to securing additional capacity because a new statewide characterization is completed.	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.
8053	Davis, John Mojave Desert & Mountain Recycling	Please allow use of local characterizations so long as they accurately reflect local conditions. There should be indicators in data provided by sampling required by the regulations. Refer to letter for more specification	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.
6329	De Bord, E., County of Sacramento	The Second Formal Draft Regulations added requirements for "gray container waste evaluations" at disposal facilities. Sacramento County has significant concerns with: 1.health and safety of workers, 2. conflict of interest between jurisdictions and facilities, and 3. lack of standardization in the evaluation procedures. The gray container waste evaluation requirements are very burdensome to jurisdictions and facilities, and 3. lack of standardization in the evaluation procedures. The gray container waste evaluation requirements are very burdensome to jurisdictions and facilities. Instead, we suggest gray container waste evaluations be required of jurisdictions and conducted by third parties using standard testing procedures.	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
6330	De Bord, E., County of Sacramento	Proposed amendment: "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 <b>green gray</b> container may be a different color.	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say 'gray' instead of 'green.'

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6331	De Bord, E., County of Sacramento	<p>Proposed language: “Renewable Gas is as defined in Title 17, California Code of Regulations, Section 95481(20) and has the same meaning as ‘biomethane’ and ‘renewable natural gas.’</p> <p>The definition of “Renewable Gas” is inconsistent with current statute of the Low Carbon Fuel Standard.</p>	<p>CalRecycle disagrees with amending the “renewable gas” definition to match the Title 17, California Code of Regulations, Section 95481(20) definition of “biomethane”. The Low Carbon Fuel Standard is a separate program with different statutory requirements than SB 1383. The LCFS “biomethane” definition includes all “renewable resources”, while the proposed SB 1383 regulatory definition of “renewable gas” necessarily limits the feedstock to landfill-diverted organic waste processed at an in-vessel digestion facility. This definition is consistent with statutory language per SB 1383 Section 1(b) that mandates the adoption of policies for beneficial uses of biomethane 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>
6332	De Bord, E., County of Sacramento	<p>Proposed language: If as a part of the approval process pursuant to Section 20690 or 20700 of Title 27 Division 2, the operator <b>shall determine the percent by weight of the fines that are not organic. That percentage of material recovery fines shall not constitute disposal of organic waste.</b></p> <p>All MRF fines will have an organic component. As written, all use of fines for ADC would be considered disposal.</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>
6333	De Bord, E., County of Sacramento	<p>Section 18983.2 - "<b>estimated</b>" mass ... <b>that "it is anticipated"</b> will be processed each year. Also, <b>replace i.e. with e.g.</b></p> <p>Parsing the organic waste stream this finely is unrealistic. For example, separating leaves from woody material. Please note that "i.e." is used, which leaves no flexibility.</p>	<p>This list of materials as used in the regulation is necessary for the purposes of verifying greenhouse gas calculations. The listed materials were introduced in the second draft to eliminate the burden of requiring applicants to conduct an annual waste characterization study. This section must be read as requiring an estimate of material that is expected to be processed each year.</p>
6334	De Bord, E., County of Sacramento	<p>Proposed language: Add- 18983.2.a.2.A "<b>If the Department has not provided a response within 180 days, the application is approved by the Department.</b>"</p>	<p>CalRecycle intends the 180-day timeline as advisory in order to guide the review process on a reasonable timeline. However, CalRecycle declines to provide a procedure where a determination regarding alternative processes or technologies that may constitute landfill disposal is made by operation of law upon the expiration of time. This section is intended to produce a decision based on an informed decision making process based on solid science and adequate agency review.</p>
6335	De Bord, E., County of Sacramento	<p>Proposed language: Compostable plastics may be placed in the green container if the material meets the ASTM D6400 standard for composability and the contents of the green containers are transported to Compostable Material Handling Operations or Facilities or In-vessel Digestion Operations or Facilities that have provided written notification to the jurisdiction that the facility can process and recover that material. <b>Written notification shall be provided to the jurisdiction if the facility's ability to process the material changes.</b></p> <p>Notification to the jurisdiction every 12 months is unnecessary and burdensome. The jurisdiction only needs to be notified when the facility's plastics processing capabilities change.</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>

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			<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>
6336	De Bord, E., County of Sacramento	<p><b>The word "route" needs to be explicitly defined.</b></p> <p>The word "route" is used here and elsewhere. The word "route" to waste managers and recyclers means a variety of things depending on context and will vary widely depending on circumstances. Clarity is needed.</p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>
6337	De Bord, E., County of Sacramento	<p>Very little detail is provided as to what constitutes a route review. This could lead to a wide range of interpretations of the scope for these reviews. We suggest a more detailed description in the route review definition.</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 evaluations 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. However, what constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste.</p>
6338	De Bord, E., County of Sacramento	<p>RE: "A designee may only dispose of a container with visible prohibited container contaminants with the consent of the jurisdiction."</p> <p><b>Delete requirement.</b></p> <p>This requirement is not feasible. The majority of commercial collection is performed by designees. These designees will be performing the route reviews. Gaining jurisdictional permission to dispose of a contaminated bin contents cannot be</p>	<p>CalRecycle has removed Section 18984.5(b)(4)(A). The change is necessary to clarify that a hauler does not have to get approval on a case-by-case basis but rather can obtain prior consent from the jurisdiction for disposing of container with prohibited container contaminants.</p>

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		<p>performed in the short time frame needed to continue efficient operations. The decision to regarding where the contaminated material is sent needs to stay with the hauler.</p>	
6339	De Bord, E., County of Sacramento	<p>Proposed language: The waste composition studies shall include samples taken from different areas in the jurisdiction that are representative of the jurisdiction <del>and account for no less than one half of one percent (0.5%) of the weekly tonnage collected in the jurisdiction.</del></p> <p>It is unclear what is the intent of the 0.5% of the weekly tonnage term. Sections (D) and (E) provide prescription for methodology and scale. <b>Please clarify or remove.</b></p>	<p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology. 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. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
6340	De Bord, E., County of Sacramento	<p>Proposed Language: The waste composition studies shall include at least the following minimum number of samples from all weekly routes included in the studies: 1. For <b>weekly</b> routes with less than 1,500 generators the study shall include a minimum of 25 samples, 2. For <b>weekly</b> routes with 1,500-4,000 generators the study shall include a minimum of 30 samples, 3. For <b>weekly</b> routes with 4,000-7,000</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 evaluations 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</p>

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		<p>generators the study shall include a minimum of 35 samples, 4. For <b>weekly</b> routes with more than 7,000 generators the study shall include a minimum of 40 samples.</p> <p>Is not clear what Cal Recycle's intent regarding routes. A typical residential route will service approximately 1,000 generators per day. Commercial routes service far fewer accounts per day. The range of number of generators for sampling appears to be based on a weekly route. <b>Insert weekly to provide clarity, or as previously suggested in this table, add a term "routes" and define "route."</b></p>	<p>generators. However, what constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. Typically, it would be over a week's period of time. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste.</p>
6341	De Bord, E., County of Sacramento	<p>Proposed Language: Pursuant to the sampling conducted of the gray container collection stream by solid waste facilities serving the jurisdiction pursuant to section 17409.5.7-17409.5.7.2 and Sections 20901-20901.2 demonstrates an average weight of <b>recoverable</b> organic waste present in gray container does not exceed an aggregate of 25 percent by weight of total solid waste collected in that stream on an annual basis.</p> <p>This section is not consistent with section 18998.1.a.3, which states "organic waste in the gray container collection stream does not exceed an aggregate of 25 percent by weight of total solid waste collected in that stream on an annual basis." It is not clear if it Cal Recycles intent to limit organics to 25% of the gray can or 25% of the total solid waste stream. Additionally, consideration needs to be placed on identification of recoverable organic waste. Many organic wastes are not recoverable. Composite materials such as certain types of envelopes, carpets, textiles, and health care/hygiene products containing partial organic fibers are not recoverable nor quantifiable as to organic content.</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.</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. In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the</p>

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			<p>performance of route reviews instead of using the waste sampling methodology. Comment noted. The omission or inclusion of non-compostable paper was intentional and specific for each section based on the purpose of the measurement and when the measurement occurs in the waste handling process.</p> <p>Non-compostable paper is still an organic waste. Paper is organic whether it is coated in plastic or other non-compostable material. Paper additionally constitutes a significant portion of the waste stream.</p> <p>With respect to Section 18984.5(f), including non-compostable paper in this section (as an organic material that is not required to be measured as organic waste in a gray container evaluation) would encourage the continued disposal of this material, and would discourage jurisdictions and haulers from identifying recovery solutions for this material. If jurisdictions are unable to find methods to recovery non-compostable paper, they may consider options to prevent its introduction into their waste stream in the first place, rather than solely relying on collection and recovery. Including non-compostable paper in this section would encourage the continued disposal of a significant source of organic waste.</p> <p>With respect to Section 17409.5.7(c)(3), the gray container waste evaluations are not jurisdiction-specific. The evaluations will provide critical data that will inform policy making for jurisdictions and the state by providing data on organic waste that is still collected in gray containers in jurisdictions. Jurisdictions that implement a three-container organic waste collection service are required to prohibit the placement of organic waste in the gray container unless the jurisdiction specifically transports the gray container to a high diversion organic waste processing facility that recovers 75 percent of the organic content in the gray container. This data will reveal general levels of regulatory compliance, as well as inform the department on the progress toward achieving the SB 1383 targets. Excluding non-compostable paper from this measurement would distort the amount of organic waste identified as being disposed.</p> <p>With respect to Section 17867(a)(16), these measurements are performed by composting facilities evaluating the organic content of the residuals that are sent to disposal. Non-compostable paper should not be received at compost facilities and should not be included in the composting process. Non-compostable paper is allowed not to count against the measurements compost facilities perform as doing so would penalize the facility for removing a non-compostable contaminant from the composting process.</p> <p>With respect to Section 18982(a)(55)(B), this section does not state that non-compostable paper does not need to be measured as organic waste. This section states that non-compostable paper shall be considered a prohibited container contaminant if it is included in the green container. 18982(a)(55)(B) does not state that those materials are allowed in the gray container. Allowances for the collection of organic waste in the gray container are made in the organic waste collection requirements in Article 3. The construction of 18982(a)(55)(D) specifies that paper products, which includes non-compostable paper, may be collected in the blue container. In other words, non-compostable paper should not be collected in the blue container for recovery, it should not be collected in the green container, and it should only be collected in the gray container if the jurisdiction hauls the gray container to a high diversion organic waste processing facility.</p>

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6342	De Bord, E., County of Sacramento	<p>Proposed Language: Notwithstanding subdivision (a), 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 <del>prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.</del></p> <p>Replacement of functional containers at any time in the future is wasteful and should not be contemplated in this recycling 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>
6343	De Bord, E., County of Sacramento	<p><b>18984.8 (c) - Remove this subsection.</b></p> <p>List will be huge and consume the surface area of the containers, creating a confusing message and creating information saturation for customers. Additionally, for practical purposes it's redundant to the previous subsection 18981.8.b.1 and .2</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> <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,</p>



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			<p>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>
6344	De Bord, E., County of Sacramento	<p>Proposed Language: If a business does not generate <del>any</del> <b>an amount that is practicably collected separately of the materials...</b></p> <p>"any" is an unreasonable standard.</p>	<p>If there is some organic waste, it should be recycled. However, the regulations in Section 18984.11(a)(1) do allow for De Minimis Waivers under prescribed conditions.</p>
6345	De Bord, E., County of Sacramento	<p>Proposed Language: Adding <b>"or a tenant's private living quarters."</b></p> <p>To give equal restrictions for residential property owners and tenants living in multi-family properties.</p>	<p>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.</p>
6346	De Bord, E., County of Sacramento	<p>Proposed Language: ...Section 19894.13 <b>(b) (3)</b> on an annual basis.</p> <p>To provide clarity.</p>	<p>Sediment debris may include organic waste, and CalRecycle must monitor the level of organic waste disposal to ensure the state achieves and maintains the organic waste reduction targets of SB 1383. This and all other data reported by jurisdictions is annual so the state can monitor year to year progress.</p>
6347	De Bord, E., County of Sacramento	<p>18984.14 (a)(7) - Proposed Language: <b>"of " should be changed to "of" and "remove" should be changed to "removed". A specific reference to Section 18984.13 ( c ) should be added</b></p> <p>Correction and clarification.</p>	<p>Thank you for the comment. CalRecycle made the language changes.</p>
6348	De Bord, E., County of Sacramento	<p>18984.14 (a)(8) - Proposed Language: <b>A specific reference to Section 18984.13 (d) should be added.</b></p> <p>Clarification.</p>	<p>Thank you for the comment. CalRecycle declines to make the change because it finds the reference is clear as-is.</p>
6349	De Bord, E., County of Sacramento	<p>18991.3 (c) - <b>delete requirement.</b></p> <p>This language is absolute and mandates that edible food generators make food available for diversion regardless of whether it will be consumed or not. Generation of no recoverable edible food would not be an "extraordinary" situation for many small or efficient generators. The requirement should be removed.</p>	<p>This language was not deleted and is necessary because it allows commercial edible food generators to not be required to comply if they experience specific extraordinary circumstances that make their compliance impracticable.</p>
6350	De Bord, E., County of Sacramento	<p>Proposed Language: A jurisdiction shall conduct <del>a sufficient number of compliance reviews, route reviews and inspections of entities</del> <b>route reviews and inspections on 2% of entities</b> described in this section to <del>adequately</del> determine overall compliance with this chapter.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</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</p>

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		This section is vague regarding how many compliance reviews, route review, and inspections are sufficient. Section (a) already requires annual compliance reviews. The section should specify how many route reviews and inspections are required.	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.
6351	De Bord, E., County of Sacramento	Proposed Language - Provide a three container organic waste collection service consistent with Section 18984.1 of this chapter to at least 90 percent of <b>aggregate of residential and commercial organic waste generators</b> <del>the organic waste generators subject to the jurisdiction's authority.</del> Clarification, in that 90% of residential and 90% of commercial would yield a different baseline of generators.	Comment noted. CalRecycle specifically amended the language to require the 90 percent threshold to apply separately to residential and commercial generators. There are approximately 740,000 commercial businesses in California and more than 10 million single family homes. Allowing 90 percent to be the measure on aggregate would theoretically allow a jurisdiction to meet the 90 percent service requirement solely through providing service to residential generators. This would compromise the state's ability to achieve the organic waste reduction targets as commercial generators are responsible for 60 percent of disposal.
6352	De Bord, E., County of Sacramento	Proposed Language - (A) The percent of organic waste present in the gray container collection stream shall be determined by <del>the results of the report submitted to the Department</del> <b>characterization of gray container</b> pursuant to Section... We suggest shifting responsibility of characterizations to each jurisdictions using a third party. Disposal sites would continue to initiate audits if significant organics are detected in disposal loads. Please see suggested language in this table on Gray Container Evaluations.	CalRecycle amended the final regulatory text to specify that the annual average percent of organic waste present in the gray container will be determined by the results of waste evaluations performed by the jurisdiction. A jurisdiction could select a designee to assist in meeting is obligation under this requirement.
6353	De Bord, E., County of Sacramento	Proposed Language: To comply with this section, a jurisdiction shall not require new commercial businesses or residents <del>to</del> <b>have to submit</b> a request for solid waste collection services prior to enrollment. Directive is unclear.	Comment noted. This language was removed from the final regulatory text.
6354	De Bord, E., County of Sacramento	Proposed Language: If the jurisdiction fails to comply with this section due to a facility to which it sends organic waste being unable to meet the requirements of a designated source separated organic waste facility, the jurisdiction <b>shall have X months</b> to implement an organic waste collection service that complies with Article 3 and shall be subject to the applicable enforcement processes outlined in this chapter... A timeframe should be given, in the event that the facility's shutdown is temporary as opposed to permanent. More importantly, this directive makes the jurisdiction subject to enforcement fines for the performance of facilities which may be out of their control.	Comment noted. The enforcement provisions in Article 14 provide that a jurisdiction may have 90 days to correct a violation of any requirement, and that timeframe may be extended up to a total of 180 days to correct a violation. Further, the recovery efficiency for designated source separated organic waste collection facilities is determined on a rolling annual average. The definition of designated source separated organic waste recycling facility establishes that a facility does not qualify as a one facility if it fails to meet the annual recovery rates specified for two consecutive quarterly reporting periods or three quarterly reporting periods within three years. 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 a designated source separated organic waste recycling facility. 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.
6355	De Bord, E., County of Sacramento	Proposed Language: If a jurisdiction <del>that</del> fails to meet the requirements of this section, it shall be subject to enforcement provisions... Unclear statement.	Comment noted. That language was revised in the final regulatory text to provide more clarity. The revised language clarifies that a jurisdiction that fails to meet the standards of Article 17 must implement a program that complies with the requirements of Article 3, and that the jurisdiction is subject to enforcement until such a program is provided.
6356	De Bord, E., County of Sacramento	Proposed Language: If at any time a jurisdiction...within a five year time period; Missing punctuation for clarity.	Comment noted. This language proposed a grammatical edit. The language in question was removed from the final regulatory text.

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6357	De Bord, E., County of Sacramento	<p><b>Eliminate entire section. Insert into Article 3, Organic Waste Collection Services, a requirement for jurisdictions to perform third party gray container composition studies to determine organic waste in gray container waste. Require composition study's frequency based on jurisdictions size.</b> For example, a jurisdiction with a population of over 1 million are required to complete three studies per year, 500k- 1 million complete two studies, 100k-500k one study, and less than 100k one study every other year. The gray container waste evaluations at facilities will indirectly cost jurisdictions, and therefore rate payers, more than jurisdictions managing their own studies. This is because of the facilities will charge jurisdictions and business more to process their material due to large number of evaluations and health and safety risk associated with handling required gray container waste.</p>	<p>CalRecycle has revised the gray container waste evaluations, Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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. The purpose of the gray container waste evaluations 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>
6358	De Bord, E., County of Sacramento	<p>The gray container waste evaluations requirement is very burdensome to facilities and creates many concerns for jurisdictions. Listed here are reasons why the gray container waste evaluations (GCWE) requirement should be removed:</p> <ol style="list-style-type: none"> <li>1. Sorting through garbage is an enormous safety and health concern for facility staff. If the GCWE requirements remain, they should be limited to visible inspections of organics.</li> <li>2. Having facilities conduct the sampling and produce data on a jurisdiction's waste is a conflict of interest. Performing these GCWE's gives facilities undue influence over a jurisdiction's performance status with CalRecycle. A disposal facility should not have reporting responsibility at the very threshold of a jurisdiction's compliance.</li> <li>3. Commercial haulers have routes that cross over many jurisdictions. Therefore, one commercial gray container load could contain several jurisdiction's waste. It would be impossible to determine which portion of that load was from which jurisdiction. Further, it is unreasonable to expect a facility to sample material from one jurisdiction's material throughout an operating day, set the material aside so it does not comingle with other jurisdiction's material until the end of the day, and then believe the sample is a good representation of one jurisdiction. The inability to effectively separate jurisdiction's waste creates unreliable sampling and therefore unreliable data.</li> <li>4. Clarity is needed on which types of truckloads, direct-hauls or transfer loads, are required to participate in the GCWE. Landfill facilities may duplicate sampling on the same loads sampled at the transfer facility it came from.</li> <li>5. Another concern is the high frequency of evaluations per jurisdiction. For example, at the County of Sacramento's Kiefer Landfill in 2018, 29 jurisdictions brought over 10 tons per year. That would be 98 GCWE every quarter or over one per day.</li> </ol>	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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. The purpose of the gray container waste evaluations 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. Regarding the term "remnant": A change to the regulatory text is not necessary. Remnant organic material is defined in Section 17402(a)(23.5) and is the organic waste collected in the gray container, as part of a three-container organic waste collection system.</p>

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		<p>6. The GCWE does not specify any sampling or testing standards. The lack of standardization in the evaluations will create inconsistent data, rendering the data useless.</p> <p>7. The term “remnant” organic waste is very subjective. <b>We suggest “remnant” be replaced with the word, “recoverable,”</b> otherwise the GCWE would expect a facility sorter to sort out animal waste, kitty litter, the cotton of a dirty diaper, etc. We do not believe CalRecycle has any intentions on measuring “remnant” organic waste, as we just described in our understanding of “remnant” definition.</p> <p>8. The loadchecking language was struck and the GCWE language was added directly after providing the appearance that the GCWE was replacing the loadchecking language. The ISOR states the intent of the loadchecking, and therefore the gray container evaluations, is to determine the presence of visible contamination delivered to a site, prevent contamination coming into facilities, and inform jurisdictions of contamination in their source separated organic waste stream. However, the GCWE requirements has no language that requires facilities to inform jurisdictions of contaminants, so jurisdictions will not be better informed to educate their generators who incorrectly sorted their organics, thus contamination will not be reduced from coming into facilities.</p> <p>For all of these reasons, we recommend replacing the GCWE at facilities with a gray container composition study required by jurisdictions, performed by third parties, per a frequency that matches the jurisdictions population size. If the jurisdiction is responsible for the study, then they can use the data quickly and directly with their generators, who are sorting incorrectly. This would also remove concerns of facility conflict of interest, comingled jurisdiction loads, and reduce a large burden on facilities operations. Further, having third party conducting the sampling provides consistent testing standards and ensures experienced staff handling high-risk material.</p>	
6359	De Bord, E., County of Sacramento	<p>Proposed Language: Commencing July 1, 2022, the operator of an attended transfer/processing operation or facility that receives a gray container collection stream shall conduct waste evaluations on the gray container collection stream received, <del>from each jurisdiction</del> consistent with this section, Section 17409.5.7.1 and Section 17409.5.7.2 to identify the ratio of remnant organic material present therein.</p> <p>This section requires the characterization of gray container waste by jurisdiction. The jurisdictional requirement is inconsistent with the requirements for characterization of the organic waste stream. Characterization of jurisdiction specific waste streams at the facilities will add complexity to an already burdensome requirement. Additionally, without jurisdictional characterization of organics, what is the worth of characterization of the gray waste stream? Further, commercial gray container waste loads often contain multiple jurisdiction's waste in a given truck load. Therefore, it is not feasible to determine from which jurisdiction the</p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>

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		contaminants within the truck load came. The jurisdiction requirement should be removed.	
6360	De Bord, E., County of Sacramento	<p><b>Revise tonnage ranges.</b></p> <p>The jurisdictional tonnage ranges are too small. Most facilities will fall into the upper range for the jurisdictions hauling to their facility. 150 tons of waste will require 8 waste characterizations over a year period. This is excessive and burdensome. Revised annual tonnage ranges should be: 0-500 tons no samples, 500 - 5000 tons 2 samples, 5000 -20000 3 samples, and 20000 tons and more 5 samples. Further, the term “remnant” organic waste is very subjective. We suggest “remnant” be replaced with the word, “recoverable,” otherwise the GCWE would expect a facility sorter to sort out animal waste, kitty litter, the cotton of a dirty diaper, etc. We do not believe CalRecycle has any intentions on measuring “remnant” organic waste, as we just described in our understanding of “remnant” definition.</p>	<p>CalRecycle revised 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 be required at the 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>CalRecycle deleted the Gray Container Waste Evaluations that were required to be performed at solid waste landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p> <p>A change to the regulatory text is not necessary. Remnant organic material only applies to organic waste collected in the gray container collection stream, as part of a three-container system. The purpose of this section is measure how much organic waste is collected in the gray container collection stream from jurisdictions, since organic waste is prohibited from being collected in the gray container. The purpose of the gray container waste evaluations is to determine how much organic waste is present in the gray container collection stream in order to collect data regarding how effective organic waste is being recovered and use the results as a way to gauge the accuracy of the jurisdictions waste composition studies and the jurisdictions container contamination minimization results. It is not intended to penalize a facility or jurisdiction but to provide information on the type and quantities of organic waste not being recovered for possible future regulations to help and recover those materials.</p>
6361	De Bord, E., County of Sacramento	<p>Proposed Language: Then determine the ratio of remnant organic material in the sample by dividing the total weight of the sample weighed in subdivision (a)(2) by <del>200 pounds</del> <b>the total weight.</b></p> <p>The ratio should be determined by dividing the remnant weight by the total weight.</p>	CalRecycle has revised this section accordingly.
6362	De Bord, E., County of Sacramento	<p>Section 20901</p> <p>Proposed Language: Commencing on July 1, 2022, the operator of disposal facility that receives <b>direct haul loads of</b> a gray container collection stream...</p> <p>Landfills should not provide gray container waste evaluations on transfer loads, as they will have already been obligated to the "gray container waste evaluation" at the transfer/processing facility and would serve duplication of evaluations. Further, the term “remnant” organic waste is very subjective. <b>We suggest “remnant” be replaced with the word, “recoverable,”</b> otherwise the GCWE would expect a facility sorter to sort out animal waste, kitty litter, the cotton of a dirty diaper, etc. We do</p>	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.

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		not believe CalRecycle has any intentions on measuring “remnant” organic waste, as we just described in our understanding of “remnant” definition.	
6363	De Bord, E., County of Sacramento	21695 (i)(2) - <b>Remove requirement.</b> This information is already reported to the state in accordance with section 95470 of the HSC. This requirement is duplicative and burdensome for the facility operator.	CalRecycle has deleted Section 21695 (i) in response to comments.
6364	De Bord, E., County of Sacramento	21695 (i)(4) - <b>Remove requirement.</b> The effectiveness of a landfill collection system has little to do with the design of the landfill cover and a lot to do with the design and operation of the LFG collection system. This language is an attempt to over simplify the complex job of controlling landfill gas. The State has been working for years to establish a methodology to quantify landfill emissions. Regulation of landfill emissions is already covered by existing regulation. This is an air emission issue which should continue to be regulated by CARB regulation. The requirement should be removed.	CalRecycle has deleted Section 21695 (i) in response to comments.
8000	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 18981.2(a): It is not reasonable to impose a mandate that jurisdictions adopt ordinances consistent with this chapter if jurisdictions conclude doing would exceed its authority or otherwise be potentially unlawful. 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 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.)	In SB 1383, the Legislature explicitly authorized CalRecycle to place requirements on local jurisdictions to achieve the organic waste diversion goals in the statute.
8001	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 18982 (a): Definition of each colored container needs to state that either the lid or body of the container are the required color not JUST the lid. Not all containers have lids and many commercial bin/box containers have black lids.	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. 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.  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.

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			<p>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 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>
8002	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and	<p>§ 18982(a)(36): Strike wording that states <del>"A city or county, or a city and county, or a special district 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"</del>. Ultimate responsibility needs to stay with the agency that already has authority over franchising collection service, because a city or county may have no remedy to address non-compliance if</p>	<p>To clarify, nothing in this definition is intended to override the provisions of the Joint Exercise of Powers Act (Gov. Code Sections 6500 et seq.), state law governing districts (Gov. Code Sections 58000 et seq.) or be construed in any way that would alter the legal relationship (statutory, contractual or otherwise) between a city, county, or city and county and a JPA or special district. It is intended that the obligations in this chapter undertaken by a special district or a JPA will be the responsibility of the special district or JPA and those entities would be subject to any enforcement</p>

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	Development	their authority to franchise collection services has already been delegated to another agency such as a JPA. For the same reason special district was added to the definition of “jurisdiction”, this definition needs to clearly state it includes any type of agency that has legal authority over the solid waste handling collection services, which must include a Joint Powers Authority. Some cities and counties have delegated their authority over collection services pursuant to legally binding contracts, in which case they have no means to address potential non-compliance in said territory.	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.
8003	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 18982(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 green container may be a different color. – <b>Typo in need of correction, green should say gray or black</b>	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say ‘gray’ instead of ‘green.’
8004	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 18998.4(b): Unreasonable to require that Franchise Agreements be amended to direct waste to specific facilities, there are numerous potential issues and legal challenges associated with exercising flow control. Regulations should specify alternative means of proving that compliant organic processing facilities are being used by jurisdiction/designee.	The regulations do not include any requirement that franchise agreements shall be amended. Rather, the regulations include language to encourage jurisdictions to develop a sustainable funding mechanism to help fund their program. See the regulatory text below: “(b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms.” Note that this provision uses the word ‘may’ not the word ‘shall.’
8005	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 18998.4 (c) (1): <b>Need to define “generator” currently only edible food generator and organic waste generator are defined, if intended to be organic waste generator wording should be revised accordingly.</b> Jurisdictions have no way of identifying all generator addresses subject to our authority, no means to readily confirm which residences/businesses are occupied and what is actually generated at each occupied residences/businesses. Instead wording should specify that this is list of all collection customers (whether service is performance-based or not) and any identified self-haulers.	Comment noted, throughout the regulatory text the term generator is used synonymously with the term “organic waste generator.” Commercial edible food generators are a specific type of organic waste generator subject to specific requirements. Any requirements in the regulation that are specific to commercial edible food generators use that term. A change to the regulatory text is not necessary.
8006	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 18998.4 (c) (2) Unreasonable to specify that jurisdiction maintain up to date list of all generator addresses if such is intended to mean all residential, commercial and industrial customers that generate any organic waste. Customer lists change daily as people move out/in of residences and businesses open/close. This needs to be changed to state that collectors are required to furnish current list of customer (not generator) addresses to the jurisdiction with authority over franchise/collection services if requested by CalRecycle or the jurisdiction pursuant to this Section.	Comment noted. To clarify, the requirement does not require the jurisdiction to identify the specific individual that resides in a property. This requirement for jurisdictions implementing a performance-based source separated organic waste collection service is meant to ensure that the jurisdiction can demonstrate compliance with the requirement to provide service to 90 percent of commercial and 90 percent of residential generators. However, if a jurisdiction is entirely unaware of the number of businesses licensed to operate or residential properties located within their jurisdiction and thus cannot meet the standards of this Article, they are not required to pursue this compliance option.
8007	Dingman, Deidra Conservation Programs Manager	§ 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	The regulations already allow organics to be placed into the gray container under specified conditions.



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	Conservation Programs Manager Department of Conservation and Development	considered, treated and disposed of as contamination. <b>Language in subsection (b) allowing textiles to be placed in the grey “non-organic 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.</b> 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.	
8008	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	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. 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. 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.”
8009	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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	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.

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		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.)	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.
8010	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	<p>CalRecycle has the authority to require jurisdictions to impose bin color requirements. 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>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>The container requirements are placed upon the jurisdictions, even if the hauler is the actual owner. It is incumbent upon jurisdictions to make the appropriate arrangements with the hauler in order to comply with this requirement. Franchise agreements typically have provisions allowing for a renegotiation of the terms due to a change in the law. 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.</p>

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8011	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 18984.9(b)(1): It is not advisable to specify businesses provide organic waste and non-organic 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. <b>This section should be rewritten as, "...in all areas where disposal containers are provided for customers employees, except for restrooms."</b>	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.
8012	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.
8013	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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).	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

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			all generators. CalRecycle revised Section 18985.1(c) to include all education requirements for single unsegregated collection systems.
8014	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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 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.	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. 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.” Administrative Civil Penalty tables, including “Base Table 6,” were deleted from the proposed regulations.
8015	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	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.
8016	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	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.	Section 18990.1(b)(2) prohibits a jurisdiction from implementing or enforcing an ordinance, policy, procedure, permit condition, or initiative that would prohibit an operation from accepting organic waste from outside the jurisdiction. 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. 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

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			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.
8017	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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. 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. Biosolid processing capacity requirements and any associated reporting mandates <b>must be separate from city/county organic waste infrastructure capacity planning requirements</b> . 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.	Section 18992.1(c)(2) specifies that POTWs must provide requested information within a specified timeframe. 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.” 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 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. 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.
8018	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	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.
8019	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	With regard to the comment about baseline data, CalRecycle’s 2018 Statewide Disposal-based Waste Characterization Study data was used to measure the edible food baseline for SB 1383. This data has already been collected and analyzed by CalRecycle and is expected to be released in a public report sometime in late spring 2020. 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 data collected in these studies allowed 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.

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			<p>With regard to the comment about how capacity should be calculated, CalRecycle will provide resources to assist jurisdictions with assessing their existing food recovery capacity. In addition, CalRecycle intends on developing a tool to assist jurisdictions in 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 the requirement to estimate the amount of edible food disposed by commercial edible food generators does not require estimates to be absent of 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 of the regulations.</p>
8020	<p>Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development</p>	<p>§ 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</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>
8021	<p>Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development</p>	<p>§ 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). 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 within the broad rulemaking authority granted to CalRecycle in statute and are necessary to ensure an end use for diverted organic material so such material does not end up being disposed and negatively affecting achievement of the 75% diversion target. 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>
8022	<p>Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development</p>	<p>§ 18995.1: <b>The date specified in subsection (a)(1) needs to be changed to later in the year.</b> 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. Text in Section 18995.1 was previously updated to reflect a jurisdiction shall annually conduct a compliance review of all garbage accounts beginning in January 2022. A compliance review is intended to be a "desk audit" to determine if all garbage accounts for commercial businesses that generate two cubic yards or more per week of solid waste and produce organic waste are subscribing to and complying with the requirements of the organic waste collection service and self-hauling organic waste to a facility that processes source separated organic waste. Also, the commencement date for route reviews for container contamination was changed to April 2022. It is not the intention for all route reviews to be completed by the April 1, 2022 date, as a date to begin route reviews.</p>

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8023	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8024	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8025	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15 day comment period.  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.
8026	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.  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

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			(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.
8027	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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 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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8028	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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 <b>on generators</b> , 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, self-hauler, hauler, or commercial edible food generator, or other entity determined to be out of compliance.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8029	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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).	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8030	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of	§ 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	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.



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	Conservation and Development	enforcement of their ordinances, and no suggestion that the Legislature contemplated the imposition of such penalties on local jurisdictions.	
8031	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8032	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8033	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	§ 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. 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 <b>requirement without regard to when the violations occur</b> . The above cited statutes authorize fines that exceed \$100 only for second or additional violations that occur within one year of the first violation.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
8034	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and	§ 18997.2(c): While this subsection defines what would be considered “stricter” than the stated penalties, <b>it is not clear what would constitute an “equivalent” penalty.</b>	The language referred to in this comment was removed during the rulemaking process.

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	Development		
8035	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	<p><b>A definition for the term “entity” still needs to be added.</b> 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 <b>other entities</b>. 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.</p> <p>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. 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>
8036	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	<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 “<b>organic waste</b>” 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. 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.</p>
8037	Dingman, Deidra Conservation Programs Manager Conservation Programs Manager Department of Conservation and Development	<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 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.</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 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.</p>
6091	Dolfie, D., League of California Cities	<p>The League is encouraged by several key changes in the most recent draft, including the addition of lack of infrastructure as a reason to apply for a Corrective Action</p>	<p>Comment noted. This comment is expressing opinion, not a change to the regulatory text.</p>

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		Plan (CAP) in the enforcement provisions, and removing the requirement to physically inspect containers that are contaminated.	
6092	Dolfie, D., League of California Cities; McCoy, R., City of Thousand Oaks	Infrastructure Capacity: Today, California lacks sufficient 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. Cities are concerned that the timelines set forth in these regulations will not be adequate to develop and permit the new facilities required to successfully implement these regulations.	The regulations allow for a Corrective Action Plan (CAP) that provides additional time under specified conditions regarding delays in securing organics recycling capacity.
6093	Dolfie, D., League of California Cities; McCoy, R., City of Thousand Oaks	Enforcement: These regulations create CAPs that set timelines and milestones for jurisdictions to achieve compliance before CalRecycle takes enforcement actions. We appreciate including inadequate capacity as a reason to file for a CAP, as outlined in Section 18996.2. However, the way the language is written will make it difficult for cities to prove that they have taken all of the steps required to reach compliance, but simply do not have the infrastructure. State and local governments should work in conjunction to develop an adequate funding source to build the infrastructure required.	Comment noted. This comment is expressing opinion, not a change to the regulatory text.
6094	Dolfie, D., League of California Cities; McCoy, R., City of Thousand Oaks	Funding: Insufficient state and local funding continue to be among the major challenges local governments face in implementing new organic waste diversion programs. The League, for example, has urged for a number of years that state "Cap-and-Trade" proceeds be used to help offset the costs for developing organic waste recycling infrastructure. More state dollars are needed for local governments to successfully implement all of the provisions of these regulations. Cities recognize that local dollars are also needed, however, cities face challenges in raising local revenues.	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.
6095	Dolfie, D., League of California Cities	These regulations assume that local governments have the ability to raise their rates to generate the resources needed to implement this bill. However, CalRecycle should not rely on the fee authority granted to local jurisdictions in SB 1383 alone, because local governments do not have unrestrained authority to impose costs on waste generators and must comply with the requirements of the California Constitution.	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

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			<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>
6096	Dolfie, D., League of California Cities; McCoy, R., City of Thousand Oaks	<p>Penalties: These regulations will impose daily fines on jurisdictions that, for certain violations, could cost up to \$10,000 per day for not being in compliance. The League asks that these penalties be imposed per-violation rather than per-day as cities, whose budgets are already strained to comply with these regulations, would economically suffer as a result. This penalty structure could make it difficult for cities to allocate the funds necessary to increase infrastructure capacity and address problems that are hindering jurisdictions from being in compliance. If the purpose of penalties is to ensure generators are sufficiently deterred from non-compliance, these regulations are premature and put the cart before the horse by designing penalties before the sticking points and needs of generators are understood.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
6097	Dolfie, D., League of California Cities	<p>Procurement: Local governments will be required to purchase specified recovered organic waste products at target levels set by CalRecycle. The League anticipates these requirements will result in substantial additional costs to local governments, over and above the costs already anticipated to comply with the extensive programmatic requirements of the proposed regulations. As mentioned in the funding section, CalRecycle should not rely solely on fee authority granted to local jurisdictions to generate such resources for procurement.</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>

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			<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.</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>
6098	Dolfie, D., League of California Cities	<p>Scope of Regulations: These proposed regulations are both complicated and broad in scope. As such, there needs to be a robust effort and funding source to ensure that cities are able to implement these regulations and adequately provide education and outreach to their residents. CalRecycle needs to continue to partner with local governments and other stakeholders to successfully implement all of the provisions outlined in 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>
6099	Dolfie, D., League of California Cities	<p>Additionally, the League is concerned about Article 8, Section 18989.2 that requires local jurisdictions to adopt Model Water Efficient Landscape Ordinances (MWELo) or face the possibility of penalties up to \$5,000 per day. It is unclear how this requirement factors into the implementation of SB 1383 and why they are included here.</p>	<p>Thank you for the comment. CalRecycle has revised Section 18989.2(a) to correct the citation. The change above addresses commenters questioning that this does not refer to organics.</p>
4443	Edgar, California Compost Coalition	<p><b>There is a typo on page 9, line 30: B is missing a parenthesis</b></p>	<p>Thank you for your comment, the error was corrected.</p>
4444	Edgar, California Compost Coalition	<p><b>There appears to be a typo on page 95, line 8</b> referencing code sections related to the collection requirements found in sections 18984.1, 18984.2 and 18984.3.</p>	<p>Thank you for your comment, the error was corrected.</p>
4445	Edgar, California Compost Coalition	<p><b>There is a typo on page 51, line 31: transportation is misspelled.</b></p>	<p>Thank you for your comment, the error was corrected.</p>

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4446	Edgar, California Compost Coalition	<b>Typo on page 52, line 8: Electricity is misspelled.</b>	Thank you for your comment, the error was corrected.
4447	Edgar, California Compost Coalition	We support the expanded procurement target for compost and the use of biomethane and biomass for bioenergy or other uses, beyond just its use as transportation fuel. We look forward to language which would mandate that the biomethane be from sources that do not include landfills. Furthermore, we believe that all procurement be required from California-based sources only. Incentivizing activities which do not occur in California will not promote much-needed, in-state market development.	The Section 18982(60) definition of “recovered organic waste products” clearly requires that products be made from California, landfill-diverted organic waste.
4448	Edgar, California Compost Coalition	Additionally, the addition of wood chips or mulch as a separate, required procurement category (not as an option on the same menu with compost, biomass energy, or renewable biomethane use) will be needed in order to build markets required to divert lumber and other wood from landfills, given the decline of the biomass industry and expansion of construction/demolition debris programs growing under green building standards implementation, as well as the requirements of these regulations.	CalRecycle disagrees with mandating mulch procurement separate from the procurement target. 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 to use a specific product (e.g. mulch), which would not be applicable to all jurisdictions.
4449	Edgar, California Compost Coalition	While we support local government procurement requirements, we also believe state agencies and departments, and other non-local entities should be required to be part of the solution for markets and have their own procurement mandates.	<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.”</p> <p>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</p>

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			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.
4450	Edgar, California Compost Coalition	<p>Reducing Contamination in Incoming Materials and Outbound Waste</p> <p>CCC supports the use of market-based mechanisms which limit contamination in the incoming feedstocks to their facilities. Our members believe that mandating specific contamination limits at processing facilities is impractical and difficult to execute; they would prefer to rely on their discretion to evaluate materials and their ability to work with feedstock suppliers to establish improved practices which will yield meaningful reductions in contamination. We believe that setting an artificial contamination limit (10% or otherwise) will have a significant impact on operators which will unnecessarily limit flexibility in systems design. For example, it is not clear why companies with vertically-integrated operations – who would prefer to invest heavily in pre-processing equipment and manpower mainly at their composting operations – would be forced to duplicate much of that investment at materials recovery facilities, transfer stations, or landfills in order to meet this regulatory burden, where it may have limited utility at substantial cost.</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>
4451	Edgar, California Compost Coalition	<p>The monitoring and reporting requirements for the conceived schedule of load checks, waste audits and sorts, while less aggressive, will unnecessarily add significant labor costs and slow down processing and transfer of organic inputs and outputs with no apparent material benefit to quality improvement and no change in the status of materials which will still be delivered to another facility for further processing. Operators can (and will) determine which loads contain excessive contamination, beyond the tolerance level for their particular operation, and provide feedback to collectors, who can then push that information back upstream to generators. This market-based feedback loop, where increased fees are accorded to higher contamination levels, is currently (and effectively) working for the large majority of operators.</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. 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:  CalRecycle has deleted the loadchecking requirements for the source separated organic waste collection stream based on comments received during the 45-day comment period. The changes replaced the loadchecking requirements with the gray container waste evaluations. 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 and still obtain the information needed by jurisdictions and Department to determine the effectiveness the collection programs. 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.</p>

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4452	Edgar, California Compost Coalition	Direct Land Application and Enforcement Concepts - It is our understanding that the Local Enforcement Agencies (LEAs) have significant concerns about their ability to regulate land application sites, given their limited authority to gain access to property where they do not have a clear regulatory authority, and have limited resources with which to undertake this additional activity. We support making land application a clear permitting structure in these regulations, one which would have the LEAs with clear responsibility for the regulation of land application activities.	CalRecycle has deleted Section 18083(c) in response to comments.
4453	Edgar, California Compost Coalition	Direct Land Application and Enforcement Concepts <b>Following are two concepts for the regulation of materials destined for land application which we support being introduced into SB 1383 regulations:</b> <b>Chipping and grinding operations/facilities shall be required to provide notification of Title 14 regulatory requirements for direct land application and/or receive certification from any landowner and operator where they send processed materials which will be land applied. These certifications shall be required to be retained with other records pertaining to the operations and subject to inspection by appropriate agencies.</b> <b>Land application operations over a specified tonnage/volume limit (e.g. 100 tons; 1,000 cubic yards; 10 tons/acre) shall be required to provide notification to LEA, regional water board, and county Agriculture Commissioner under a process similar to current EA Notification regulations for other operations in Title 14. This EA Notification process may require landowner/operator to verify the agronomic benefit being derived from the land application activity by use of appropriate soils testing.</b>	A change to the regulatory text is not necessary. Land application is already defined in Section 17852(a)(24.5). CalRecycle is not proposing to revise the regulatory permitting tier structure and therefore, not within the scope of this rulemaking.
6187	Erlandson, J., City of Livermore	Food waste prevention and edible food recovery The biggest climate benefit is achieved through the prevention of food waste. Incorporating incentives for preventing food waste upstream, including issuing waivers for commercial edible food generators who generate de minimus quantities of edible food or no surplus food, should be a priority.	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. 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. While this education is important for all commercial edible food generators, this education will be critical for commercial edible food generators that dispose of edible food types that are not desired by food



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			<p>recovery organizations and food recovery services as these generators are still required to comply.</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 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>
6188	Erlandson, J., City of Livermore	Also, as currently written, 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 could encourage donation dumping and burden food rescue organizations. Adding a list of eligible food donation items should be included in the regulations.	<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 specify that 20% of healthy or nutritious foods 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 and mission of many food recovery organizations and food recovery services is to reduce food insecurity in their communities by recovering 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> <p>CalRecycle would also like to note that the FSOR clarifies that commercial edible food generators are not exempt from compliance if they only have "unhealthy" edible food available for food recovery. The FSOR explains that the expectation for commercial edible food generators is that they establish a contract or written agreement with food recovery organizations or food recovery services that are willing and capable of recovering the maximum amount of their edible food that would otherwise be disposed. For example, if a commercial edible food generator contracts with a food recovery organization that will recover all of the generator's produce, but will not recover the generator's baked goods, then the generator must establish a contract or written agreement</p>

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			with an additional food recovery organization or service willing to recover the generator's baked goods.
6189	Erlandson, J., City of Livermore	Outreach: Livermore has aspired to minimize text on outreach materials because graphics are a more effective way to communicate with our community. Graphics can communicate to everyone, regardless of language(s) spoken or reading level, and it has been proven that the use of graphics leads to better sorting behaviors. In addition, streamlined outreach materials reduce costs associated with design and production of materials in multiple languages.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
6190	Erlandson, 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. Livermore would like to continue to be consistent with the requirements of StopWaste's Mandatory Recycling Ordinance; StopWaste staff currently have the ability to issue waivers and oversee inspections. By design, inspections are not random – they target businesses that have trouble complying. We have found this to be an effective way to engender participation and increase diversion, and would like the option to continue this effective protocol.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
6191	Erlandson, J., City of Livermore	Procurement: Procurement requirements for organic waste products will be expensive and wasteful. Livermore's residents are served by a special district – the Livermore Area Recreation and Park District (LARPD) - that oversees recreation and manages parks in Livermore. This leaves very few City-maintained acres in Livermore. However, as currently written, nearly 3,700 tons of compost would need to be purchased annually, at a cost of nearly \$1,000,000 per year. This amount of compost far exceeds the City's needs, and would likely be better utilized by LARPD or the Livermore Valley Joint Unified School District. The City requests that CalRecycle allow Livermore to meet its procurement requirements based on purchases made on behalf of the Livermore community by these other agencies.	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 gardens, to name a few. The City can also procure eligible energy products or mulch. 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 = \$30 (inc. \$5 for transportation), which means the cost would be approximately \$111,000 per year, which is orders of magnitude lower than the commenter's assumption. Regarding schools and special districts, the definition of "direct service provider" clarifies that a contract or other written agreement, for example a Memorandum of Understanding (MOU) is required to prove the direct service provider relationship. School districts and other entities (i.e. special districts, parks districts) could be considered a direct service provider if there was a contract or agreement in place with the jurisdiction. Without said contract or agreement, any entities that are not part of the jurisdiction's departments, divisions, etc. would not by default be considered part of the jurisdiction nor would their procurement count towards the jurisdiction's procurement target.
6192	Erlandson, J., City of Livermore	Additionally, wood needs a market more than compost; mulch purchased from permitted facilities or generated on site should be included in the calculation to meet the procurement target.	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

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6193	Erlandson, J., City of Livermore	Proposed Language RE: 18984.1: Hazardous wood waste shall not be collected in the blue container <del>or grey container.</del> Treated wood should be able to go in the garbage container.	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
6194	Erlandson, J., City of Livermore	See letter for proposed language. Also in Section 18986.1 - Non-Local Entities Requirements and Section 18986.2 - Local Education Agencies Requirements	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
6195	Erlandson, J., City of Livermore	18984.5: How many routes will be sampled?	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 evaluations on each hauler route. The term "hauler route" is key to the jurisdiction's compliance with these requirements because it describes where the jurisdiction should direct its contamination minimization efforts in order to increase detection of container contamination by generators. What constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. For example, a jurisdiction's collection system may consist of one continuous itinerary or series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics or the system could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so 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. 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

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			<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.'</p> <p>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> <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. CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs.</p> <p>The commenter is correct. The samples taken from hauler routes as described in 18984.5.(c)(1)(E) do not need to be 200 pounds. Those samples must collectively add up to a total of 200 pounds collected from each container stream for the samples conducted per Section 18984.5(c)(F).</p>
4431	Etherington, RecycleSmart	<p>First, food generator Tier 1 and Tier 2 definitions do not easily align with edible food generator identities and characteristics in our service area. For example, the Tier 1 definition uses the terms "Super Market" and "Grocery Store" without clearly defining the key differences between the two generator types. In particular, the regulations define Grocery Store as a total facility size equal or greater than 10,000 SF, but the definition of Super Market uses gross annual sales as the defining characteristic. In the Tier 2 definition, covered "Restaurants" are defined as having 250 seats or greater and a total facility size equal or greater than 5000 SF. In our service area, this would exclude many restaurants that could be, and probably should be, included for participation. A revised definition with fewer seats and reduced square footage will include smaller restaurants which will increase the reach of the regulation and resulting in increased recovery of edible food.</p>	<p>Some 10,000 square foot grocery stores will not have gross annual sales of \$2,000,000 or more, yet they will still have significant amounts of currently disposed edible food that could have been recovered for human consumption. For this reason, it was important that 'grocery store' and 'supermarket' were defined separately in the regulations.</p> <p>Regarding the comment, "a revised definition with fewer seats and reduced square footage will include smaller restaurants which will increase the reach of the regulation and result in increased recovery of edible food." A change to the regulatory text was not necessary for the following reasons. 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 regulations because these entities 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 reduced square footage.</p>
4432	Etherington, RecycleSmart	<p>Second, <b>the definition for "Food Recovery Organizations" as provided in Section 18982(a)(25) requires further clarification to differentiate between those organizations that only collect edible food from those organizations that accept and distribute the food for consumption.</b> When RecycleSmart staff contemplates how edible food collection will be transferred from generators to consumers in our</p>	<p>A change to the regulatory text was not made because there is no regulatory need to differentiate between different types of food recovery organizations in the regulations since these entities have the same requirements. Having one broad definition for food recovery organizations and one broad definition for food recovery services is sufficient. Note that the regulatory requirements for these entities are very similar regardless of the type of food recovery</p>

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		<p>region, it is evident that the majority of collection services and the organizations that receive and distribute edible food are separate and should be defined that way in the regulation.</p>	<p>organization they are. Any food recovery organization or food recovery service that contracts with or has written agreements with commercial edible food generators pursuant to SB 1383 is required to maintain records and report to the jurisdiction that their primary address is physically located in.</p>
4433	Etherington, RecycleSmart	<p>Further, in Section 19991.2, the draft regulation requires measuring and reporting edible food recovery "capacity" and identifying additional capacity, if needed. Because the definition of "Food Recovery Organizations", as provided in Section 18982, is so broad and includes a wide variety of organizations, accurately measuring capacity will be challenging. Either more specific direction regarding how to quantify capacity is needed, or local jurisdictions should be allowed to devise ways to measure capacity based on local conditions. CalRecycle has an earlier precedent for allowing jurisdictions to devise compliance procedures. When AB 341 was implemented in 2012 and required jurisdictions to identify businesses that exceed the 4 cubic yard generation threshold, jurisdictions were allowed the option to use a procedure developed by CalRecycle staff or could develop and propose their own procedure for approval by CalRecycle. We believe that an approach like this will better serve both local and state needs in determining regional recovery capacity.</p>	<p>CalRecycle will provide resources to assist jurisdictions with assessing their existing food recovery capacity. In addition, CalRecycle intends on developing a tool to assist jurisdictions in 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 the requirement to estimate the amount of edible food disposed by commercial edible food generators does not require estimates to be absent of 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 of the regulations.</p>
4434	Etherington, RecycleSmart	<p>Finally, the revisions to Section 18991.3 direct that in no case may an edible food generator not recover and donate edible food, absent extraordinary circumstances. The draft regulations appear to limit the meaning of "extraordinary circumstances" to just two circumstances. Because it is difficult to foresee future circumstances, we recommend a more flexible definition. At a minimum, the extraordinary circumstances should include unsafe food management and transfer conditions. This might include seasonal weather conditions that could impede food transfer, inadequate containment/refrigeration of the food materials, or travel distances and the potential for traffic delays that can also delay delivery. These conditions will significantly delay food delivery and potentially make it unsafe for consumption. We recommend that these conditions be recognized in the regulations with the requirement that, if experienced, they be recorded for later review to determine validity.</p>	<p>A text change was not necessary because the extraordinary circumstances specified in the regulations already are flexible. CalRecycle recognizes 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 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. (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). "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>

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4435	Etherington, RecycleSmart	How will the current draft regulation address reporting and recordkeeping required by performance-based requirements to Joint Powers Authorities/Regional Agencies? Currently, RecycleSmart, a joint powers authority, is recognized as a Regional Agency for six jurisdictions and, as such, our AB 939,341, and 1826 program response and reporting is handled regionally and not by individual jurisdictions. In contrast, the current draft regulations appear to require notification by individual jurisdictions. Can a Regional Agency provide notification for itself or will it be required to provide notification for each member jurisdiction? Will record keeping be performed on a regional basis or must records be kept for each member jurisdiction within the Regional Agency? Any requirement for each member agency to record and maintain records would be duplicative and require additional staff time and cost, which is contrary to the Regional Agency function of making record keeping and reporting more efficient.	If a Joint Powers Authority such as a regional agency is being utilized to comply with the chapter, an employee of the JPA may be reported as the contact person. However, CalRecycle notes that a performance-based source separated organic waste collection service must be implemented throughout a whole jurisdiction rather than piecemealing parts.
4436	Etherington, RecycleSmart	Section 18998.1(a)(4) requires automatic enrollment for organic collection services and indicates that "a jurisdiction shall not require new commercial businesses or residents to request solid waste collection service prior to enrollment." Our agency does not currently impose a mandatory subscription for solid waste services. However, if commercial businesses or residents in our service area do subscribe, they are able to automatically receive organics collection service. Please confirm that this approach will satisfy the automatic enrollment requirement found in this section.	Comment noted. The proposed approach does not meet the requirements to provide organic waste collection services either under Article 3 or Article 17.
4437	Etherington, RecycleSmart	How would the 90% of organic waste generators subject to the jurisdiction's authority be measured? Is the "baseline" for numbers of residential and commercial generators established through use of property tax records and business licenses? Or will jurisdictions themselves propose how they plan to measure the baseline? How often will the baseline measurement need to be updated?	<p>Comment noted. The requirement to provide organic waste collection service is a constant requirement, it is not reviewed in arrears or set on a baseline. If a jurisdiction elects to implement a performance-based organic waste collection service, it must be capable of demonstrating that 90 percent of the commercial and residential generators subject to the jurisdiction's authority have service.</p> <p>CalRecycle will verify compliance with this requirement through a review of records that jurisdictions are required to maintain, as well as through a review of relevant information reported to CalRecycle by the jurisdiction.</p> <p>Jurisdictions are required to report the number of generators subject to their authority under Article 13. Jurisdictions are required to maintain records showing the total number of generators subject to their authority, and the total number of generators subject to their authority that receive services, and a list of generators that do not receive service. The method of demonstration is left to the discretion of the jurisdiction but should be based on substantial evidence. Jurisdictions are also required to annually report on the total number of generators that receive each type of collection service.</p> <p>Under Section 18995.2 All records maintained in the implementation record need to be current within 60 days (i.e. up to the last two quarters).</p>
4438	Etherington, RecycleSmart	Has CalRecycle staff fully considered the process described in Section 18815.5(f) that "receiving facilities" (transfer stations and disposal facilities) will need to follow to ensure that the amount of organic material does not exceed the 25% weight threshold? It appears from the draft regulations that quarterly "samplings" will need	Comment noted. The requirements for facilities to perform gray container waste sampling under 17409.5.7.2 by jurisdiction of origin was removed from the final regulatory text.

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		to be conducted for each and every jurisdiction using the facility. Although RecycleSmart understands the objective of this procedure, significant time and effort will be needed to perform up to five quarterly waste evaluations per jurisdiction (for jurisdictions generating 1000 TPY) for multiple jurisdictions using a large disposal facility. This requirement will require additional resources with associated expense to accomplish which will be passed on to local rate payers. The number of sample audits should be reduced or replaced with other procedures that will provide accurate measurement but will lower effort and associated costs.	
4439	Etherington, RecycleSmart	Prescriptive Nature of Regulations - As highlighted above, we recognize that the inclusion of a performance-based alternative under Article 17 creates an additional, less prescriptive pathway to compliance with the regulations. However, it is unclear whether RecycleSmart will qualify to use the performance-based option and be able to take advantage of this less resource-intensive approach to compliance. Given that, we remain concerned that the overall prescriptive and process-oriented nature of the remainder of regulations will present significant challenges for our agency to fully comply.	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.
4440	Etherington, RecycleSmart	Enforcement Burden and Punitive Approach - We appreciate that the revised draft regulations reduce the number of possible offenses for non-compliance with the regulations. However, we are concerned with the enforcement burden and punitive provisions that remain. Especially if RecycleSmart is unable to take advantage of the performance-based option, the regulations will continue to call on our agency to extensively police the actions of local generators. And even the performance-based regulations require jurisdictions to maintain a monitoring and enforcement role towards edible food generators and food recovery organizations. This enforcement function will make it harder for our agency to work in partnership with generators, edible food generators, and food recovery organization to encourage development of new practices and systems necessary to comply with the regulations.	Comment noted. Jurisdictions are not required to penalize generators for noncompliance until 2024. This provides jurisdictions time to educate generators regarding their requirements to comply with the regulations. Additionally the regulations provide that a jurisdiction can provide an entity that is out of compliance approximately seven months to come into compliance prior to commencing a penalty action.
4441	Etherington, RecycleSmart	Furthermore, as we highlighted in our February 26, 2019 letter, within Section 18996.2, the draft regulations require immediate issuance of a Notice of Violation where a jurisdiction fails to comply with the regulations' extensive requirements. Under AB 939, CalRecycle may consider a jurisdiction's "Good Faith Effort" in implementation and management of required programs. However, in the draft SB 1383 regulations, Good Faith Effort is replaced by "Substantial Effort" and "Extenuating Circumstances" which provide much narrower protections to jurisdictions. The complex and detailed program requirements in the draft SB 1383 regulations and the possibility that not all may be met within a required timeframe make lack of a Good Faith Effort standard a real concern. RecycleSmart therefore requests that CalRecycle consider revising the draft regulations to include provisions of "Good Faith Effort" for jurisdiction compliance similar to those applied under AB 939.	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
4442	Etherington, RecycleSmart	Funding Required for Implementation - If the draft regulations are adopted, compliance with their extensive programmatic requirements and aggressive	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

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		<p>organics diversion requirements will require significant increases in funding. Yet the draft regulations fail to identify funding sources. RecycleSmart is concerned that lack funding will prevent our agency from meeting all of the regulations' requirements. RecycleSmart is equally concerned that attempts to raise additional funds at the local level will unduly burden our ratepayers. <b>We therefore request that funding sources be identified at the State level to supplement local funding sources for implementation.</b></p>	<p>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>
4497	Fajardo, No Affiliation	<p>I would like to thank you for the opportunity to comment. I would like to ask for clarification on Article 6.3. Record Keeping Requirements. Section 17414.2 (b) (1&amp;2). This is something that will be a huge undertaking for local jurisdictions for a product that is already hard to offload. Requiring that every amount of compostable material for land application be recorded to include “the address, parcel number, or other equivalent indicator of physical location of each property receiving land application. (2) The weight of the material sent to each location identified in (1),” is a huge undertaking that will take effort and money to track. This is something that would require additional staff and divert public funds that should go to public health and safety. This is not a simple requirement. I am failing to see the benefit of this added requirement to justify such a huge level of effort. Could you please explain (1) What is the intent of this addition? (2) What benefit this will bring to the regulations? (3) How will this help place the compostable material—a commodity that is already hard to find a market for? And, (4) What is the benefit to the public by diverting funds and resources that can justify adding this into the regulations?</p>	<p>CalRecycle has revised Section 17414.2(b) in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of compostable material sent off site to any destination other than to permitted solid waste facility or operations, the percentage of incompatible material, and the total weight of the compostable material sent off site that day. The purpose is to specify that the material sent off to a destination that is not a permitted solid waste facility has less than 20% incompatible material on and after 2022 and 10% on and after 2024. This is necessary to ensure that the material was processed to a level that a receiving facility can recovery the material.</p>
6213	Foss, C., City of Dublin	<p>Procurement: The City of Dublin strongly disagrees with procurement targets based on population because population is unrelated to the actual need for compost. The upward adjustment to procurement requirements in these proposed regulations for local governments results in substantial additional costs, over and above the costs already anticipated to comply with the extensive programmatic requirements in the proposed regulations. In lieu of mandating purchase of organic waste products, we support the recommendation from StopWaste to require municipalities to enforce existing Water Efficient Landscape Ordinance requirements which includes compost use in landscape construction.</p>	<p>A specified procurement amount is necessary for jurisdictions to measure compliance with Article 12, which is necessary to achieve the ambitious diversion targets required by SB 1383. The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from the department’s Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.</p>



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			<p>A change to the regulatory text is not necessary. 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 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. Regarding renewable gas alternatives "not currently available" to the County, it is important to note that the options available today do not necessarily reflect the options that will be available in the future once the more than 25 million tons of organic waste are diverted and processed. Therefore, revising or deleting these regulations to satisfy current availability of recovered organic waste products and current infrastructure would not be forward-looking nor would it match the intent of Article 12. Regarding the Water Efficient Landscape Ordinance, CalRecycle revised the proposed regulations in the previous draft to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELO.</p>
3088	Foster, C., City of Oceanside	<p>Section 18982.14(5) This section provides the definition of a "Designated Source Separated Organic Waste Facility." From this definition, it is not clear whether a waste water treatment plant with co-digestion operations would qualify as a designated Source Separated Organic Waste Facility.</p> <p><b>The City of Oceanside requests the addition of an explicit clarification that a waste water treatment plant that processes source separated food waste through co-digestion is part of the definition of "Designated Source Separated Organic Waste Facility".</b></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. 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. The definition of "designated source separated organic waste facility" includes a "compost operation" or "composting facility" as defined in Section 18815.2. The definition reference in 18815.2 states:</p> <p>"Composting operation" or "composting facility" has the same meaning as "compostable material handling operation" or "composting facility" as defined in section 17852(a)(12) of this division, and includes in-vessel digestion as regulated in section 17896 of this division. A person operating a "composting operation" or "composting facility" is referred to as a "composter" in these regulations." (emphasis added)</p> <p>A wastewater treatment plant may operate as an in-vessel digestion facility under the applicable reference sections. If the facility meets the threshold standards it could qualify a designated source separated organic waste facility.</p>

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3089	Foster, C., City of Oceanside	<p>Section 18982(25) This section provides the definition of a Food Recovery Organization. “Food recovery organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for consumption <b>through entities</b>, including, but not limited to:</p> <p>(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> <p>The addition of “through entities” to this definition creates ambiguity for the use of the term.</p> <p>1. One interpretation is that subsections (A) through (C) describe types of food recovery organizations, as defined in the previous draft. If this interpretation is correct, then the addition of “through entities” is not accurate for organizations that distribute food directly to the public.</p> <p>2. A second interpretation is that subsections (A) through (C) describe the “entities” that a food recovery organization might distribute food through, rather than being classified as food recovery organizations themselves. If this is the case, what is the difference between a food recovery organization and a food recovery service? Can an organization be both a food recovery organization and a food recovery service? <b>The City of Oceanside requests removing “through entities” from this definition; or if this is to be left in, amending the language to read “...an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food, either directly or through other entities, to the public for consumption, including, but not limited to...”</b></p>	<p>A change to the regulatory text was made in response to this comment. The definition of “food recovery organization” was revised to:</p> <p>“Food recovery organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities including, but not limited to:</p> <p>(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>
3090	Foster, C., City of Oceanside	<p>Section 18984.1(d) “...A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that the allowance of the use bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating that the facility can <b>process and remove</b> plastic bags when it recovers source separated organic waste. The written notification shall have been provided <b>within the last 12 months.</b>” This is something the City is including in the terms of its franchise agreement. If this is included, as drafted, the operator could potentially remove this service on the basis of this annual noticing process. The long-term agreement between the City and contractor should serve as adequate notice.</p> <p>The City of Oceanside requests that the final sentence of this subsection be amended to: <b>“The written notification shall have been provided within the last 12 months, or as specified in an operative franchise agreement or facility agreement.”</b></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.</p>

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		<p>This section does not specify whether organic waste collected and properly contained in plastic bags may be placed in the gray container for collection, and removed at the transfer or processing site. This can be an important tool for jurisdictions to manage costs for food waste and green waste collection and processing, if separate processing of these materials is desired. Without this allowance, the requirement for a fourth cart to separate food waste from green waste would add an additional \$1.3 - \$1.6 million dollars per year in cost for the City of Oceanside alone.</p> <p><b>The City of Oceanside requests that CalRecycle consider allowing organic waste properly contained in plastic bags to be placed in gray containers and removed at a transfer or recovery station for further processing. For example, food waste properly contained in plastic bags could be placed in the gray container and then removed at the transfer site. This shall only be permitted, however, if specifically allowed by the jurisdiction and if proof of proper containment can be provided.</b></p>	<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. 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.</p> <p>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).</p> <p>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.</p>
3091	Foster, C., City of Oceanside	<p>Section 18984.5(c)(1)(D) – This Section defines the sample size for waste composition studies. It is not clear from the methodology of the waste composition studies how a route is being defined. Not all routes are the same. For example, a residential route may make 800 to 1500 stops per day, whereas a commercial route may only make 30 to 100 stops per day depending on the density of businesses. In addition, routes operate different numbers of days per week (some provide daily service, some only operate on Tuesdays, etc.). The references to the number of generators per route doesn’t clarify whether it is a daily route or a weekly route. Daily routes make much more sense because the City is routed geographically and daily sampling would provide more accurate stratification across the demographic diversity of communities. The tiers created in this section also have overlap that may create confusion as to which tier should be followed. For example, a route with exactly 4,000 generators is required to take 30 samples under Subsection 2 and 35 samples under Subsection 3.</p> <p><b>The City of Oceanside requests further description of how routes are defined and clarification of which sectors this definition is based on. It may be more appropriate to establish standards based on route days (not weeks). Additionally, we request that CalRecycle amend the tiers in subsection (c)(1)(D) to remove overlap between the tiers for number of generators.</b></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 evaluations 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. However, what constitutes a “hauler route” is dependent upon the designated itinerary or geographical configuration of the jurisdiction’s waste collection system. For example, a jurisdiction’s collection system may consist of one continuous itinerary or series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics or the system could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so 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. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction’s collection system may consist of one continuous</p>

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			<p>itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste. 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. CalRecycle revised the text to remove the overlap in the tiers.</p>
3092	Foster, C., City of Oceanside	<p>Section 18984.11.a.2 Physical Space Waivers. This section, as written, permits generators to avoid compliance by claiming a space constraint and also creates an administrative obligation on the jurisdiction to monitor those locations, in perpetuity, to verify that the space constraint claim is valid. In order to reduce the administrative burden on jurisdictions, improve economies of scale in collection systems, and help to achieve CalRecycle's goals with this regulation, we recommend making this a temporary waiver.</p> <p><b>The City of Oceanside requests that the language be revised to allow a one-time waiver for space constraints with a duration of one- to two-years, depending on the nature of the space constraint and the cost to the generator or property owner of resolving the space constraint. Additionally, the generator should be required to developing a solution to overcome the space constraint during the waiver period.</b></p>	<p>Nothing precludes a jurisdiction from requiring a generator to develop a solution to overcome the space constraint during the waiver period. CalRecycle is allowing these waivers to be reissued every five years, instead of one time only, because the issue of space or amount may not change significantly during that timeframe.</p> <p>CalRecycle does not agree that a jurisdiction is "obligated to monitor" space waivers beyond the initial issuance of the waiver. The language in 18984.12(a)(2) does not speak to what a jurisdiction must monitor after issuance of such waivers. In addition, a jurisdiction does not have to provide space constraint waivers to generators; the language is permissive (i.e., "jurisdictions may...").</p>
3093	Foster, C., City of Oceanside	<p>Section 18985.1.e.2 Education and Outreach. This subsection describes the requirement to make education and outreach information linguistically accessible to non-English speaking residents; including the requirement to provide electronic materials for any language that is spoken by more than 10,000 persons of 0.5% of the jurisdiction's residents. The City appreciates CalRecycle's addition of an electronic option and the desire to be inclusive of a jurisdiction's residents. However, the reduction of the language threshold from 5% to 0.5% is a significant change that will be prohibitively expensive for jurisdictions without materially increasing adoption rates. Considering the diversity of California, 0.5 % (1 in every 200) would lead to a plethora of languages and dialects that jurisdictions would need to create materials for. Additionally, the terms "speaks English less than very well" and "non-English speaking" appear to be used interchangeably throughout this article, and it is not clear how these terms are defined or differentiated.</p> <p><b>The City of Oceanside requests that the threshold be revised from 0.5% back to 5.0% and revisit the provisions of this section to ensure consistent use of the defined terms.</b></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>
3094	Foster, C., City of Oceanside	<p>The latest draft appears to eliminate the obligation for POTWs to divert biosolids and sewage sludge from landfill disposal. This may cause significant volumes of organic materials to continue to be landfilled, potentially resulting in a shortfall in</p>	<p>A change to the regulatory text is not necessary. The use of organics as an alternative daily cover would be considered disposal pursuant to Section 18983.1(a). Facilities, operations, end-uses,</p>

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		<p>the achievement of the goals of SB 1383. Furthermore, it may increase the perceived cost of adding recovered organics to POTWs if the digestate is currently going for disposal.</p> <p><b>The City of Oceanside requests restoration of the prior draft’s language or additional provisions that create incentives for agencies that divert biosolids from landfill.</b></p>	<p>and activities that are considered a reduction of landfill disposal are described in Section 18983.1(b).</p>
3095	Foster, C., City of Oceanside	<p>Article 9 Section 18990.1(c)(3) seems inconsistent with the language added to s. 18990.1(a &amp; 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. Furthermore, the language in s 18990.1 (a&amp;b) must remain as drafted.</p>	<p>Section 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 section 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. Meanwhile, section 18990.1 (c) clarifies that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with section 40053 of the Public Resources Code.</p> <p>The regulatory text has been updated to reflect another stakeholder's feedback. Section 18990.1 (b) (1) now reads: (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, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p>
3096	Foster, C., City of Oceanside	<p>The City appreciates CalRecycle’s efforts to support the implementation of edible food recovery programs through these regulations. However, without education of employees of commercial edible food generators, the programs will not be effective or properly executed. We recommend that commercial edible food generators be required to provide educational information to their employees on the edible food recovery program, much like commercial businesses are required to provide information on organic waste diversion.</p> <p><b>The City of Oceanside requests language, consistent with earlier sections, to read: “Commercial edible food generators shall annually provide information to employees, or other individuals involved in food handling for the generator, about the edible food recovery program requirements, including the requirement to not intentionally spoil food that may be recoverable for human consumption. Commercial edible food generators shall provide information to any new employees before or within 14 days of employment.”</b></p>	<p>The requirement proposed in this comment is overly prescriptive and in order for a commercial edible food generator to comply, they will have to educate one or more of their employees about their food recovery procedures and the commercial edible food generator requirements that they are subject to.</p>
3097	Foster, C., City of Oceanside	<p>18991.3(c) This section describes that in no case may a commercial edible food generator recover no edible food absent extraordinary circumstances, including failure of a jurisdiction to secure food recovery capacity and “Acts of God.” There may be other circumstances that might impact the ability to recover edible food aside from the currently listed “Acts of God.” For example, a major power outage leading to a lack of refrigeration may cause unsafe food storage conditions and unintended food spoilage.</p> <p><b>The City of Oceanside requests that the phrase “Acts of God” be changed to “uncontrollable circumstances” and include circumstances beyond natural</b></p>	<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</p>

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		<p><b>disasters, as appropriate, such as riots, major power outages, etc.</b> While this comment is noted in this section for the purposes of this letter, CalRecycle should consider changing “Acts of God” to a more comprehensive definition of “uncontrollable circumstances” throughout the regulations, such as in Section 18995.4. Enforcement by a Jurisdiction.</p>	<p>safety (e.g. electric company schedules and carries out a preventative power safety shutoff to protect the public from wildfires).  “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. Therefore, the term “Acts of God” was not revised to “uncontrollable circumstances.”</p>
3098	Foster, C., City of Oceanside	<p>Section 18993.1(h) – Renewable Gas Procured from a POTW  The City appreciates the addition of the procurement of renewable gas (or resultant energy) from a POTW. Biosolids are defined by this regulation to be an organic waste, however, they are not received from a permitted solid waste facility. They are received through the sewer collection system. If an agency is making the investment in complying with subsection (2) – 75% diversion of biosolids from landfill – the gas resulting from that should be counted toward the procurement requirement as it is generated from California Organic Materials that were diverted from landfill. Removing subsection 1 provides an incentive to jurisdictions to divert biosolids rather than landfilling them.  <b>The City of Oceanside requests that subsection (1) be eliminated.</b></p>	<p>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.  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>
3099	Foster, C., City of Oceanside	<p>Section 18997.2. Penalty Amounts  Base Table 1 imposes higher penalties for record keeping requirements for food recovery organizations and food recovery organizations (at Level 1, Level 2, and Level 3 for each offense) than it does for commercial edible food generators (at Level 1, Level 2, and Level 2 for each offense). Food recovery organizations and services will be carrying an increased burden for the successful implementation of these regulations, and many are under-funded, under-staffed, or volunteer run. It does not seem equitable to financially penalize these organizations and services at a higher amount than edible food generators, many of which are large for-profit companies.  <b>The City of Oceanside requests that Base Table 1 be amended such that the penalty levels for record keeping requirements for food recovery organizations and food recovery services match the penalty levels for commercial edible food generators at: Level 1 for the first offense, Level 2 for the second offense, and Level 2 for a third and subsequent offense.</b></p>	<p>CalRecycle has revised Section 18997.2 in response to this comment. The change will align the penalty amounts for failing to keep records for edible food generators and food recovery organizations in accordance with the limitations of the Government Code on penalties for local infractions.</p>
3100	Foster, C., City of Oceanside	<p>Section 18998.1. Requirements for Performance-Based Source Separated Collection Service.</p>	<p>Comment noted. The requirement to provide organic waste collection service is a constant requirement, it is not reviewed in arrears or set on a baseline. If a jurisdiction elects to implement</p>

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		<p>Section 18998.1.(1) This subsection describes the requirement to “Provide a three-container organic waste collection service consistent with 1 Section 18984.1 of this chapter to at least 90 percent of the organic waste generators subject to the jurisdiction’s authority.” However, it is unclear how this 90 percent subscription will be measured. This is especially problematic in shared-service and multi-tenant environments where the number of accounts is well known, but the number of generators varies from month to month based on occupancy.</p> <p>Additionally, the provisions do not specify whether this performance-based approach has to be used on a jurisdiction-level or if it may be used on a sector basis (e.g. only single-family generators) or a routing basis (e.g. only material collected in carts).</p> <p><b>The City of Oceanside requests that CalRecycle include a description of how subscription levels will be measured to meet this requirement and clarify whether the performance-based approach could be used at a sub-jurisdictional level.</b></p>	<p>a performance-based organic waste collection service, it must be capable of demonstrating that 90 percent of the commercial and residential generators subject to the jurisdiction’s authority have service.</p> <p>CalRecycle will verify compliance with this requirement through a review of records that jurisdictions are required to maintain, as well as through a review of relevant information reported to CalRecycle by the jurisdiction.</p> <p>Jurisdictions are required to report the number of generators subject to their authority under Article 13. Jurisdictions are required to maintain records showing the total number of generators subject to their authority, and the total number of generators subject to their authority that receive services, and a list of generators that do not receive service. The method of demonstration is left to the discretion of the jurisdiction but should be based on substantial evidence. Jurisdictions are also required to annually report on the total number of generators that receive each type of collection service.</p> <p>Under Section 18995.2 All records maintained in the implementation record need to be current within 60 days (i.e. up to the last two quarters).</p>
3101	Foster, C., City of Oceanside	<p>Section 18998.1.(a)(1) This subsection describes the requirement to implement a system of automatic enrollment for new businesses and residents. The implementation of an autoenrollment process may be feasible, but presents potential conflicts with Proposition 218 and/or Proposition 26 that agencies may need flexibility to mitigate.</p> <p>The City of Oceanside requests that the language of this subsection be amended to: <b>“Implement a system for automatically enrolling all new commercial businesses and residents within the jurisdiction in the three-container organic waste collection service within 30 days of occupancy of a business or residence, in a manner within the jurisdiction’s reasonable control and subject to applicable state law regarding rate regulation...”</b></p>	<p>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>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>The comment describes potential conflicts between the automatic enrollment process for solid waste collection service under Section 18998.1(a)(1) and Propositions 26 and 218, but doesn’t describe what those might be. The comment is noted. Notably, the phrase “automatically</p>

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			enrolling” was removed from the regulatory language during the rulemaking process in favor of alternate language that states that a jurisdiction shall not require business or residents to request solid waste collection service prior to providing it. In addition, the Performance-Based Source-Separated Organic Waste Collection Service provisions in Article 17 are optional requirements and a jurisdiction does not have to choose this regulatory pathway.
3102	Foster, C., City of Oceanside	<p>Section 17409.5.7.2. Gray Container Waste Evaluations - Measuring Remnant Organic Material.</p> <p>Subsection c provides that “The operator shall conduct a measurement in the presence of the EA when requested,” but does not include local jurisdiction representatives. Considering the significant impact that these evaluations may have on the jurisdiction’s compliance with SB 1383 and the obligation of the local agency (not the hauler or facility) to manage contamination, local jurisdiction representatives should be involved in approving the study methodology and observing studies of their material, if they so desire.</p> <p>Additionally, the method for evaluations and measuring remnant organic material for gray containers and the method described for blue and green containers is different in approach and level of detail.</p> <p><b>The City of Oceanside requests a modification to the text to align the sorting methodology for all three streams and including a requirement that “The operator shall notify the jurisdiction that a measurement is planned at least fifteen (15) business days prior to the measurement and shall invite the jurisdiction to send a representative to observe the study. Such measurement shall be scheduled on a normal government working day and between the hours of 8 a.m. and 5 p.m. In the event that the Jurisdiction determines that the study was improperly conducted or believes it was not representative, that Jurisdiction may appeal to CalRecycle for review of the matter.”</b></p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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 requirement that measurements be conducted in the presence of the LEA remained and is necessary to ensure that facilities are conducting measurements accurately. It provides the LEA an opportunity to oversee the methodology and identity where problems may occur or if it is not performed correctly. If there is a large discrepancy between the gray container waste evaluation performed by the operators and the jurisdictions container contamination minimization results reported, the jurisdictions will be notified.</p>
1010	Gereke, D., REHS Consumer Protection Section Placer County Environmental Health	<p>14 CCR 18982(74): Tier II Facilities</p> <p>Recommend that the categories be revised.</p> <p><b>Add: Food Processors/Manufactures.</b> If they have a California Department of Public Health Cannery License or PFR (Processed Food Registration) and they are above a certain size. CDPH staff could help better define cut off lines. (You want true manufacturing- not just the mom &amp; pops making small batches of salsa out of a commissary. If facility has walk-ins big enough to drive a forklift into then they should be pulled in).</p>	<p>A change to the regulatory text was not necessary for the following reasons. The regulations are structured to place direct requirements on entities that dispose of large amounts of edible food that could potentially be recovered for human consumption. 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>Note however, that any food processors or food manufacturers that meet the definitions 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. It is very likely that some food processors and food manufacturers will fall under the definition of a food distributor or a wholesale food vendor, which are both tier one commercial edible food generators, and therefore these entities would be required to comply.</p>
1011	Gereke, D., REHS	14 CCR 18982(74): Tier II Facilities	The commenter did not provide any data to support the change they proposed in this comment. Additional data is required before this very significant change could be considered. Specifically,



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	Consumer Protection Section Placer County Environmental Health	<p><b>Combine: A, B, C, G, H to: Retail Food Preparation Facility with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.</b></p> <p><b>In Section 18982. Definitions: Define Retail Food Preparation Facility as Food preparation kitchens where food is prepared and served/sold directly to consumer. (Such as restaurants, cafeterias, commissaries, hotel or health facility kitchens.)</b></p> <p>If the kitchen is located at a state agency, an education agency, a hotel or a health facility it doesn't really matter- there is no reason to break them out so specifically. All that is important is the size of the facility/how much food is being produced. Is it large enough that it is probably producing edible food that can be recovered?</p>	<p>food waste disposal rates and food donation data from each tier two generator based on the threshold proposed in this comment would need to be presented to CalRecycle and reviewed by the Department prior to making the proposed change. Please note that the industry groups, thresholds, and metrics established for tier two commercial edible food generator were determined through in-depth review and analysis of food waste data and food donation data as well as through robust engagement and consultations with food recovery experts, key food recovery stakeholders, and businesses that currently donate their edible food that they would otherwise discard.</p>
1012	Gereke, D., REHS Consumer Protection Section Placer County Environmental Health	<p>14 CCR 18982(74): Tier II Facilities</p> <p><b>Remove (E) Large venue and (F) Large event from Tier II definition. (Possibly Tier III in future?)</b></p> <p>If the large venue has its own kitchen and it is large enough to be of concern it will fall under the Retail Food Preparation Facility defined above and would not need to be specified separately. Again, it doesn't matter where the kitchen is located- a kitchen is a kitchen- the question is is it large enough to qualify as a Tier II facility? Most large venue and large event food service is provided by many small independent food vendors.</p>	<p>Collectively, food vendors operating at large venues and large events often dispose of significant amounts of edible food. A portion of this food could potentially be recovered for human consumption. Therefore, it is critical that these entities remain in the regulations as tier two commercial edible food generators. The regulations are structured to place direct requirements on entities that dispose of large amounts of surplus edible food that could potentially be recovered for human consumption. Large event and large venue operators must establish a contract or written agreement with food recovery organizations or food recovery services and make arrangements to ensure that the food vendors operating at their event or venue are donating their edible food that would otherwise be disposed.</p>
1013	Gereke, D., REHS Consumer Protection Section Placer County Environmental Health	<p>Proposed 14 CCR 18991.3(b)(3): <b>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. Recommend section 18991.3(b)(3) be removed.</b></p> <p>Most large venue and large event food service is provided by many small independent food vendors. For example, at the Golden One Center and at the Raley Field Sport Stadium each food booth is owned and operated by a different independent food vendor. It is exactly like a mall food court. The food is made on-site within a small booth and should not qualify as a Tier II facility, which are large food facilities. This proposed regulation would require a Subway vendor at the Golden One Center to comply. The same vendor could have a Subway facility in a mall or in a stand alone facility elsewhere- doing the exact same food and be the same size or larger and those facilities would not have to comply. It places an unfair burden on vendors located at the large venues and large events when the size of their food production does not meet the intent of the regulation.</p>	<p>Collectively, food vendors operating at large venues and large events often dispose of significant amounts of edible food. A portion of this food could potentially be recovered for human consumption. Therefore, it is critical that these entities remain in the regulations as tier two commercial edible food generators. The regulations are structured to place direct requirements on entities that dispose of large amounts of surplus edible food that could potentially be recovered for human consumption. Large event and large venue operators must establish a contract or written agreement with food recovery organizations or food recovery services and make arrangements to ensure that the food vendors operating at their event or venue are donating their edible food that would otherwise be disposed.</p>
1014	Gereke, D., REHS Consumer Protection Section Placer County Environmental Health	<p>Proposed 14 CCR 18991.3(b): Commercial edible food generators shall arrange to recover the <b>maximum amount of edible food that would otherwise be disposed.</b> This is the goal, of course, but it must be realistic. Please remember that what applies to one food facility may not apply to another. It will be much easier for Tier I facilities with pre-packaged foods to achieve than those in Tier II which will have to deal with packaging, food temperature and safety issues. Some menu items can be</p>	<p>The 'maximum amount' language in Section 18991.3(b) was added in response to stakeholder comments received during the informal and formal rulemaking process. If the 'maximum amount' language in Section 18991.3(b) was removed from 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</p>

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		frozen (making it easier to stockpile awaiting pickup) and some cannot (requiring more frequent pickups). If a hotel has a conference luncheon and afterwards there are 10 sandwiches and a bowl of green salad left must they go to the expense of having someone pick it up or have staff deliver it somewhere? (When do the extra miles of pickup and delivery vehicle emissions outweigh the landfill gas reductions from removing small amounts of edible foods from the waste stream?) Tier II facilities should be allowed to give recovered foods (like the small amount in this example) to staff. It would be easy to log and document and low income hotel staff would benefit from it.	commercial edible food generators arrange to recover the maximum amount of their edible food that would otherwise be disposed, which is critical in order for the state to achieve the statutory requirement of recovering 20% of currently disposed edible food for human consumption by 2025. Regarding the comment, "Tier II facilities should be allowed to give recovered foods (like the small amount in this example) to staff. It would be easy to log and document and low income hotel staff would benefit from it." A text change was not necessary because nothing in the regulations prohibits a generator from giving their surplus edible food to their staff. Only edible food that would otherwise be disposed must be recovered.
6089	Gershon, B., California Association of Food Banks	We are in the process of reading and commenting on the new draft regulations for SB 1383, and we were wondering which organizations have been requesting that the 6-ton threshold be eliminated. We're trying to understand and coordinate comments from our network, and it would be helpful to know, if you're comfortable sharing.	This comment is asking CalRecycle to identify the stakeholders that made the recommendation to remove the 6-ton recordkeeping and reporting threshold for food recovery organizations and services. Comments 6037 and 2012, which were received during the 45-day formal comment period recommended that the 6-ton threshold be removed. Comment 6037 was submitted by Second Harvest Food Bank of Orange County, and comment 2012 was submitted by Waste Not OC Coalition. 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 or written agreement with a food recovery organization that collects less than 6 tons per year, and also claim that they donate the maximum amount of their edible food that would otherwise be disposed to that food recovery organization. Because the food recovery organization that the generator claims they contract with recovers less than 6 tons of food per year, the jurisdiction would not be able to 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 directly from commercial edible food generators, pursuant to Section 18991.3 (b) to maintain records of the food they receive from those generators. Removing the 6-ton threshold was also critical for measurement purposes. If the 6-ton threshold remained in the regulations, jurisdictions would not receive a complete data set of total pounds recovered from commercial edible food generators in the previous calendar year. A complete data set is critical in order for jurisdictions to report accurate data to CalRecycle so that CalRecycle can measure the state's progress toward achieving the 20% 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.
6090	Gershon, B., California Association of Food Banks	Also, from the presentation at the Northern CA haulers conference, it seemed like you had created some sub-categories within the definition of edible/recoverable food. Is that something that's now included in the regulations? I didn't find anything – but it's also a long document and maybe I missed it.	This question is regarding CalRecycle's 2018 waste characterization studies and the eight food waste categories that the studies included. SB 1383's edible food recovery regulations include only one definition for edible food. The regulations do not include the eight food waste categories that were used to measure food waste in CalRecycle's 2018 waste characterization studies. Please

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3087	Gratz, T., Hitachi Zosen Inova U.S.A. LLC	<p>In light of the comment period to the recent proposed changes to SB 1383, I am an issue I want to address that relates to diversion credits</p> <p>Section 18983 addresses the issues of Landfill Disposal and Recovery. While it is clear that diversion credits apply if organic material is diverted from disposal at a landfill into an anaerobic digestion facility, it is unclear if stabilized compost that has been derived from the treatment of organics in an anaerobic digestion facility would be allowed as ADC and if such tonnage will be eligible for diversion credits.</p> <p>The thought process behind this is that stabilized compost from organic material that is extracted from unseparated mixed solid waste (OfMSW) which has been anaerobically digested and all volatile greenhouse gases has been removed in this process, will most likely not be able to be applied to farmland and most certainly not for food crop application because of the uncertain heavy metal levels and inert contamination (glass, sand, grid). Can such material that has been stabilized and all volatile green house gases have been reduced be used as ADC and count towards diversion credit?</p> <p>If you could bring clarity on this issue, I would appreciate it.</p>	<p>note that the food waste data collected in CalRecycle’s 2018 Disposal Facility-Based Waste Characterization Study will be used to help inform edible food baseline measurement for SB 1383.</p> <p>Once organic waste goes through the composting process, it is no longer organic waste. Section 18983.1 only speaks to “organic waste.” If compost is used as ADC, this section makes no determination whatsoever regarding landfill disposal or reduction in disposal.</p> <p>Comment noted, finished compost is not organic waste.</p>
6009	Gross, M., Zanker Road Resource Management, Ltd.	<p>RE: Section 18993.2. Record Keeping Requirements For Recovered Organic Waste Procurement Target (6):</p> <p>How would the biomass facility really know what jurisdictions used the permitted facility for their feedstock? The reporting needs to be conducted by the diversion facility for both clean/source separated biomass and biomass derived from C&amp;D. This data needs to be part of a permitted facilities quarterly report to CalRecycle. As an example, if Zanker took in 1,000 tons per month for 3 months from 15 different jurisdictions than the math would be simple. In this example from May 2019, we shipped 2090 tons of biomass, the remaining tonnage was fines, moisture loss, mulch etc.</p> <p>Each jurisdiction would be allowed (69.67%) of biomass based upon their incoming tonnage. Under 901 we will be reporting similar information.</p> <p>If, however the permitted facility also moves wood collected from their C&amp;D operation to their wood grinder that is also on site and this wood is produced into biomass, then you have a major problem identifying the tonnages attributed to each jurisdiction, especially if you commingle your wood with clean sourced lumber.</p> <p>According to the 2018 CalRecycle report on biomass tonnage from urban sources, biomass facilities received 1,055,465 tons.</p>	<p>The proposed procurement regulations do not mandate that a jurisdiction must procure back their own organics in the form of a recovered organic waste product. A jurisdiction may procure from anywhere in the state, provided their procurement meets the Section 18982(60) definition of “recovered organic waste products”.</p> <p>To use the comment’s example of a biomass facility, it is not the responsibility of the facility to attribute incoming tonnage to specific jurisdictions for the purposes of Article 12 compliance. Requirements pertaining to biomass conversion facilities are detailed in Section 18993.2(6) which describes that jurisdictions are responsible for obtaining a written certification from the biomass conversion facility stating the feedstock is sourced from certain solid waste facility. The intent is so the department can verify landfill diversion.</p>
6010	Gross, M., Zanker Road Resource Management, Ltd.	<p>RE: Section 18993.2. Record Keeping Requirements For Recovered Organic Waste Procurement Target (6):</p> <p>To solve this problem, Zanker recommends that for C&amp;D wood that goes to a biomass facility to count towards this procurement mandate, the C&amp;D operation must meet the CORR Protocol National Standard (CORR) or in the worst case the</p>	<p>Article 12 does not mandate that a jurisdiction must procure back their own organics in the form of a recovered organic waste product. A jurisdiction may procure from anywhere in the state, provided their procurement meets the Section 18982(60) definition of “recovered organic waste products”. A biomass conversion facility would not have to demonstrate the detailed accounting described in the comment.</p>

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		<p>ISO/IEC Guide 65 or ISO 17065 and relevant portions of the ISO 14000 family of standards, although the ISO/IEC standards are inferior to the CORR standards. Facilities that meet the CORR Protocol National Standard weigh all materials inbound and outbound including residuals from their mixed C&amp;D facility and report the tonnage monthly. Thus, an operation can provide the accurate tonnage of wood waste that was shipped for biomass as well as determine each judications percentage of wood waste.</p> <p>As an example, Zanker accepted 20,271 tons of mixed CD at its facility in May 2019. This tonnage was processed over our Construction waste processing systems with a diversion rate of 75.60%. I know that we transferred 3,053 tons of wood waste back to our wood waste processing operation which was 15.1 % of the incoming total. Our wood waste processing operation diverted 69.67% of all its wood waste to biomass. I also know each jurisdiction's incoming tonnage number for Construction Waste brought to Zanker so I can extrapolate the allowable tonnage of biomass to each city and report this on my quarterly report to CalRecycle.</p> <p>See letter for additional data/background info.</p>	
7000	Gunder, Next Course	<p>Achieving the target that “20 percent of currently disposed edible food is recovered for human consumption by 2025” can happen both through increasing the numerator (recovered food) and decreasing the denominator (all edible food currently disposed). These regulations focus solely on the numerator, even in cases where that may not be logical. For instance, the donut factory that produces a daily surplus of food that is not accepted by nearby food recovery organizations should be made to reduce their surplus (decreasing the denominator), rather than simply continuing to offer unwanted donuts (which does not help increase the numerator). Similarly, reducing household waste of edible food could reduce the denominator, making a smaller volume of food recovery necessary to hit the target. I encourage you to consider points in the regulation that can achieve reduction of the denominator in addition to volumes of food recovery for the numerator.</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. While this education is important for all commercial edible food generators, this education will be paramount for commercial edible food generators that dispose of edible food types that are not desired by food recovery organizations and food recovery services as these generators are still required to comply.</p>
7001	Gunder, Next Course	<p>(18) Edible food: I recommend removal of the phrase <del>“that is fit to be consumed.”</del> This phrase is problematic because it implies that food needs to be fit for consumption at a particular point in time. Generators could wait until a food is no longer fit for consumption and then not be held to the associated requirements. (E.g., wait for peaches to get moldy, and</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>

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		<p>then they wouldn't have to recover). This would also put the definition in line with the international Food Loss and Waste Protocol (<a href="http://flwprotocol.org/wp-content/uploads/2017/05/FLW_Standard_Exec_Summary_final_2016.pdf">http://flwprotocol.org/wp-content/uploads/2017/05/FLW_Standard_Exec_Summary_final_2016.pdf</a>), which uses this definition for food:            "Any substance—whether processed, semi-processed, or raw—that <b>is intended for human consumption</b>. "Food" includes drink, and any substance that has been used in the manufacture, preparation, or treatment of food. <b>"Food" also includes material that has spoiled and is therefore no longer fit for human consumption.</b></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 to the following:            "Edible food" means food intended for human consumption that is fit to be consumed."            (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.            A number of commenters expressed concerns about including the language "that is fit to be consumed" in the definition. They argued that the language is problematic because it implies that food needs to be fit for consumption at a particular point in time. Generators could wait until a food is no longer fit for consumption to avoid compliance. CalRecycle agrees with these comments and removed the language "that is fit to be consumed" from 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>
7002	Gunder, Next Course	I don't see where commissaries, fresh-cut processors, and ready-to-eat food processors are included. Are these meant to be left out? If not, may help to explicitly include.	Any commissaries, fresh-cut processors, and ready-to-eat food processors that meet the definitions 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. It is very likely that some commissaries, fresh-cut processors, and ready-to-eat food processors will fall under the definition of a food distributor or a wholesale food vendor, which are both tier one commercial edible food generators, and therefore these entities would be required to comply.
7003	Gunder, Next Course	(74)— <b>Typo! Missing a "D"</b>	A change to the regulatory text was made in response to this comment. The letter (D) was added.
7004	Gunder, Next Course	Section 18984.4.—Wouldn't you need to ask jurisdictions for actual volumes rather than just diversion rates in order to determine if the state hits its goals?	CalRecycle will measure progress via statewide characterization studies and will not measure at individual jurisdictional level.
7005	Gunder, Next Course	Section 18985.2.b.d. Add requirement for jurisdictions to provide information on entities that assist with source reduction (applicable technologies, technical assistance, etc), in addition to basic information on how.	Adding an education and outreach requirement as prescriptive as the one in this comment could potentially be overly burdensome for jurisdictions. Please note that a jurisdiction could provide this kind of information to help them comply with the requirement in Section 18985.2 (b)(1)(D). However, it is at the discretion of the jurisdiction to determine what kind of food waste prevention education and outreach will be most meaningful for the commercial edible food generators in their area.

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7006	Gunder, Next Course	<p>Section 18991.1.a. Per comment above on reducing the denominator, <b>add requirement to “Reduce the amount of unrecoverable edible food discarded.”</b></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 unrecoverable 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. While this education is important for all commercial edible food generators, this education will be paramount for commercial edible food generators that dispose of edible food types that are not desired by food recovery organizations and food recovery services as these generators are still required to comply.</p>
7007	Gunder, Next Course	<p><b>Addition of a third extraordinary circumstance where “The carbon emissions footprint of the edible food quantities is smaller than the carbon emissions footprint required to collect and redistribute the food.”</b> The burden of proof would be on generator to demonstrate, using existing CARB emissions factors. Alternatively, a de minimus amount could be considered that’s tied to a sector benchmark. This option could be phased in as the Department receives more data and could set sector benchmarks.</p>	<p>In order to accurately calculate the emissions reductions the generator would need to know the exact amount of their edible food that will be available for food recovery. This would be very difficult for a generator to predict, and if the generator makes an imprecise estimate, then the calculated emissions reductions would be incorrect. In addition, the generator would also need to know the different types of vehicles that will be used to collect the edible food for food recovery. This could also be very difficult for a generator to determine, and it will likely not be the same every time as food recovery organizations tend to have different kinds of vehicles (truck, van, electric, refrigerated, etc.) making collections. Adding the third extraordinary circumstance proposed in this comment would also require jurisdictions to have staff trained in reviewing greenhouse gas emission reductions calculations. Ultimately this would be overly burdensome for jurisdictions and generators alike and therefore was not added to the regulations.</p>
7008	Gunder, Next Course	<p><b>A separate requirement that “An organization that is unsuccessful in its attempts to recover edible food more than 5 times in one year must take steps to reduce the total quantity of edible food being produced. It must retain documentation of total edible food quantities discarded and specific reduction efforts”.</b> Without this, an organization repeatedly overproducing unwanted edible food has a much easier time theoretically meeting its requirement than one producing usable edible food surplus. This requirement would likely have the co-benefit of disincentivizing overproduction of unhealthy foods, given those are often among the foods that are not accepted by food recovery organizations.</p>	<p>Regarding the comment, “an organization that is unsuccessful in its attempts to recover edible food more than 5 times in one year must take steps to reduce the total quantity of edible food being produced.” 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 source reduction target. As a result, CalRecycle will not require generators or jurisdictions to source reduce the amount of edible food generated. 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. To help address this, CalRecycle added language to the edible food recovery education and outreach section to require jurisdictions to annually provide</p>

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			<p>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 surplus edible food they generate. Rather, this is an education requirement intended to help generators learn how they can prevent the creation of food waste. While this education is important for all commercial edible food generators, this education will be critical for commercial edible food generators that are still required to comply, but may have edible food types available for food recovery that some food recovery organizations and services would not accept. Regarding the comment, “This requirement would likely have the co-benefit of disincentivizing overproduction of unhealthy foods, given those are often among the foods that are not accepted by food recovery organizations.” Commercial edible food generators are not exempt from compliance if they only have “unhealthy” edible food available for food recovery. 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. The FSOR clarifies that the expectation for commercial edible food generators is that they contract with or establish written agreements with food recovery organizations or food recovery services that are willing and capable of recovering their edible food to distribute to the public for consumption. 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 recover that type of food. For example, if a commercial edible food generator contracts with a food recovery organization that will recover all of the generator’s produce, but will not recover the generator’s baked goods, then the generator must contract with an additional food recovery organization or service willing to recover the generator’s baked goods.</p>
7009	Gunder, Next Course	<p>Section 18991.4.A.3 – <b>Additional requirement of “(E) The quantity of edible food generated but not either offered or accepted for recovery, associated reasons.”</b>  This will both help establish accurate amounts of edible food generation as well as determine which organizations are actually recovering food versus simply offering it (and thus fitting into the category of generators regularly generating unwanted edible food surplus).</p>	<p>Requiring commercial edible food generators to establish accurate edible food generation baselines extends beyond SB 1383’s statutory edible food recovery goal. SB 1383’s edible food recovery goal is to recover 20% of currently disposed edible food for human consumption by 2025. This is not a goal for individual commercial edible food generators to source reduce the volume of surplus edible food they generate and for that reason, the proposed requirement in this comment could not be added to the regulations.</p>
7010	Gunder, Next Course	<p>Section 18991.5. – <b>Additional requirement for organizations and services to keep records of what food they receive but ultimately dispose of.</b></p>	<p>A text change was not made in response to this comment because a previous draft of the regulations included the requirement that food recovery organizations and services maintain records of food they receive from commercial edible food generators, but ultimately dispose of. Comments from key stakeholders such as California Association of Food Banks strongly urged CalRecycle to remove the requirement from the regulations as it would be far too difficult and expensive for them to track. For these reasons, the requirement was removed from the regulations and was not added back in.</p>
7011	Gunder, Next Course	<p>Section 18992.2.a.  I recommend that the Department provides guidance on how to estimate quantity of edible food generated, otherwise methods (and comparability) could be all over the map. Maybe “according to guidance provided by the Department”?</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>

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7012	Gunder, Next Course	<b>Additional requirement to compare the demand for recovered food in the jurisdiction with estimated edible food generation.</b> If generation is anticipated to exceed demand, then capacity should focus on source reduction rather than recovery infrastructure.	While CalRecycle appreciates the intent of the comment, making such a change exceeds CalRecycle's authority; in addition, the regulations cannot have source reduction requirements stronger than what is already included in the education/outreach requirements.
7013	Gunder, Next Course	Addition of new section that provides a trigger to reevaluate the requirements if it's clear that they will not lead to the edible food target being met.	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. Food facilities and food service establishments that are not a tier one or tier two commercial edible food generator are exempt from SB 1383's regulations because they typically have smaller amounts of edible food that would otherwise be disposed available for food recovery. As a result, a trigger was not be added to the regulations. However, CalRecycle does have the authority to reevaluate SB 1383's edible food recovery regulations should the state fail to achieve the goal of recovering 20% of currently disposed edible food for human consumption by 2025.
4288	Haller, A., Environmental Diversion Solutions	If every restaurant or food based business was able to dry out and reduce their food waste volumes by 90% everyday on site, it would create a huge impact on the need for organic waste separation costs for those businesses. Waste haulers can eliminate their organic waste on the same day they collect it right at that cities or counties transfer station/MRF. The remaining 10% is transformed into biochar material that benefits the same community that generated that organic waste to begin with. That's what biochar gasification can do for California. That's what will help CalRecycle turn the organic waste problem into an organic waste opportunity. Education is power, I cannot encourage CalRecycle enough to learn about biochar and the systems that have been serving the US farming industry in the midwest for over a decade.	Comment noted. Comment is not commenting on the regulatory language.
4289	Haller, A., Environmental Diversion Solutions	Biochar gasification is not new but it is new to the organic waste industry. Biochar will allow jurisdictions and municipalities to combine organic waste materials and avoid extreme separation costs creating the need for multiple bins that there is no space for and then procure their own organic products made from their own organic waste materials keeping those materials regional avoiding long hauling and avoiding These systems are small and can process 240 tons of a variety of organic waste in 3-4 hours! The volume is reduced by 90%. The remaining 10% is transformed into biochar. We have test study results that prove the value of biochar in sequestering carbon and locking up toxins and heavy metals in the soil. They are commercially viable with a tipping fee of \$65./ton with a minimum of 240 tons per day. They allow waste haulers to eliminate the organic waste materials on the same day they are collected at the transfer station! No need to long haul, no need to take months to compost, no need to use water. Biochar made from organic waste, especially food waste and animal manure have amazing impacts on our soils while reducing carbon and it provides a real solution for the organic waste industry without creating the need for extreme separation, long hauling or long term processing.	Comment noted. Comment is not commenting on the regulatory language.
4290	Haller, A., Environmental Diversion Solutions	The key in organic waste solutions is material reduction at the point of generation whenever possible or at the very least regionally at the waste hauling transfer station or MRF. If we can reduce material volumes by 90% and transform the	Comment noted. Comment is not commenting on the regulatory language.



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		<p>remaining 10% into the best substance known to man to sequester carbon in the soil for 1000's of years we have a real solution. Biochar also works great with compost when added in at the beginning of the process. The biochar helps to absorb odors, locks up toxins and speeds up the compost process for a much better end result product. Part of our problem with compost is separating the good from the toxic compost. Biochar gasification can solve this issue at well because of the high temps, biochar gasification can be key in cleaning up toxic compost in an expedited fashion.</p>	
4291	Haller, A., Environmental Diversion Solutions	<p>Biochar gasification can process Anaerobic digestate and has been looked at repeatedly by several CA WWTP's to help them avoid land application of sewer sludge but ultimately has been rejected because of lack of diversion qualification from CalRecycle under SB-1383.</p>	<p>Comment noted. CalRecycle concurs that it is important to maintain 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 gas reductions that meets or exceeds the baseline of 0.30 MTCO<sub>2</sub>e per short ton. Currently, only the technologies and activities referenced in section 18983.1(b) have been verified to meet this baseline. However, to maintain flexibility and to consider all projects that are effectively equivalent to the baseline of 0.30 MTCO<sub>2</sub>e, the proposed regulations include Section 18983.2, Determination of Technologies That Constitute a Reduction in Landfill Disposal. This section provides a pathway for including additional activities and technologies such as the one referenced in your comment.</p>
4292	Haller, A., Environmental Diversion Solutions	<p>There have been great advances made with biochar systems that can now process a variety of organic waste materials in hours (240 tons) and the fact that there are commercially viable systems, made in the US and in operation for over 10 years ready to help California generators but are not considered because there is no diversion qualification when it clearly qualifies is troubling.</p>	<p>CalRecycle concurs that it is important to maintain 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 gas reductions that meets or exceeds the baseline of 0.30 MTCO<sub>2</sub>e per short ton. Currently, only the technologies and activities referenced in section 18983.1(b) have been verified to meet this baseline. However, to maintain flexibility and to consider all projects that are effectively equivalent to the baseline of 0.30 MTCO<sub>2</sub>e, the proposed regulations include section 18983.2, Determination of Technologies That Constitute a Reduction in Landfill Disposal. This section provides a pathway for including additional activities and technologies such as the one referenced in your comment.</p>
4293	Haller, A., Environmental Diversion Solutions	<p>The same data goes for food waste dehydrators that basically do the same thing and have test results that say the output is a form of biochar. They reduce food waste volumes by 90% on site are not considered because CalRecycle has not updated their technical data on dehydrators for 10 years. A lot has changed in 10 years. We have opportunities now that did not exist 10 years ago and they are a real solution for so many municipalities that the current design just won't work for.</p>	<p>CalRecycle concurs that it is important to maintain 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 gas reductions that meets or exceeds the baseline of 0.30 MTCO<sub>2</sub>e per short ton. Currently, only the technologies and activities referenced in section 18983.1(b) have been verified to meet this baseline. However, to maintain flexibility and to consider all projects that are effectively equivalent to the baseline of 0.30 MTCO<sub>2</sub>e, the proposed regulations include section 18983.2, Determination of Technologies That Constitute a Reduction in Landfill Disposal. This section provides a pathway for including additional activities and technologies such as the one referenced in your comment.</p>
6162	Halliday, B., City of Hayward	<p>Implementation Requirements on Jurisdictions - Section 18981.2 states that "nothing authorizes" a jurisdiction to delegate its authority to impose civil penalties to private entities. The City of Hayward would like the ability to delegate our responsibility to assess and issue fees for collection bin contamination to our franchise hauler. We recommend CalRecycle amend regulations to allow this option for jurisdictions.</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>

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6163	Halliday, B., City of Hayward	Section 18984.11 (c) prohibits jurisdictions from delegating the authority to issue waivers to designees. We recommend restoring the ability of cities to allow designees to issue waivers to business and residents. In Alameda County, StopWaste issues waivers on behalf of the City of Hayward as part of Alameda County's Mandatory Recycling Ordinance. We would like to mirror this arrangement while implementing SB 1383.	JPAs are included the definition of 'Jurisdiction' in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.
6164	Halliday, B., City of Hayward	StopWaste has addressed generator compliance through the Mandatory Recycling Ordinance on behalf of Alameda County jurisdictions. This involves the data management and storage of thousands of letters and photographs, which would be incredibly difficult, time-consuming and redundant to transfer to jurisdictions on a regular basis. For efficiency, we recommend that record-keeping requirements allow for portions of the implementation record to be held by designees, given that the record is readily accessible by CalRecycle when requested.	This comment was made and was responded to in the 1st 45-day comment period and is not germane to the changes made to the regulations in the 1st 15-day comment period.
6165	Halliday, B., City of Hayward	We strongly disagree with procurement targets for cities outlined in Section 18993.1. Targets based on population and GDP are not related to the actual need for recovered organic waste products and will likely be burdensome for jurisdictions to meet.	<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. 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>
6166	Halliday, B., City of Hayward	If CalRecycle does retain procurement targets, we recommend that regulations allow the procurement of mulch or biosolids to meet targets and that all energy generated from POTW facilities contribute toward targets regardless of how biosolids are used post processing.	<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, 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 that do not meet the compost definition will not count towards the procurement target. CalRecycle also disagrees with adding any 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</p>

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			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
6167	Halliday, B., City of Hayward	Additionally, during the last SB 1383 townhall on June 18, 2019, CalRecycle staff noted that any recovered organic waste products procured at the behest of a jurisdiction would contribute towards a jurisdiction's procurement target. <b>We recommend that CalRecycle clearly state this in the regulations allowing all recovered organic waste product procured by school districts, colleges and universities, developers, businesses, correctional facilities, and hospitals to meet a jurisdiction's procurement target.</b>	The definition of "direct service provider" clarifies that a contract or other written agreement, for example a Memorandum of Understanding (MOU) is required to prove the direct service provider relationship. School districts and other entities (i.e. special districts, parks districts) could be considered a direct service provider if there was a contract or agreement in place with the jurisdiction. Without said contract or agreement, any entities that are not part of the jurisdiction's departments, divisions, etc. would not by default be considered part of the jurisdiction nor would their procurement count towards the jurisdiction's procurement target.
6168	Halliday, B., City of Hayward	We believe that Section 18984.7 would result in unnecessary waste and would be costly to implement. <b>We recommend regulations only require collection bin lids meet color requirements by January 1, 2036.</b> We believe the body of the waste container should not require replacement prior to the end of its useful life even if that date exceeds January 1, 2036. We believe this adjustment will meet the intent of the regulation while minimizing waste.	<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>

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			<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>
6203	Hamilton, D., City of Oakland	<p>Expand Recovered Organic Waste Procurement</p> <p>Procurement requirements in the latest draft of regulations continue to be troubling. Cities like Oakland which are dense and heavily populated, do not have a lot of land on which to appropriately apply recovered organic waste products in quantities currently required by the per capita procurement target. We recommend the state use another multiplier where rural or more land-rich jurisdictions should take a higher weighted percentage per population of compost.</p>	<p>The comment suggests weighting the procurement target methodology toward "rural" or "land-rich jurisdictions" but lacks specific language for quantifying that approach. Further, the comment seems to misinterpret the procurement requirement as limited to compost, when in fact, there are multiple options for procuring different products based on a jurisdiction's local need. 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>
6204	Hamilton, D., City of Oakland	<p>Additionally, to expand available and compliant uses for recovered organic waste products, we recommend Section 18993.1 (e) be amended as follows:</p> <p>"A jurisdiction shall comply with subdivision (a) by one or <del>both</del> <b>more</b> of the following:</p> <p>(1) Directly procuring recovered organic waste 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><b>(3) Requiring, through an ordinance or other enforceable policy, that landscaping projects or projects with a landscaping element within the jurisdiction utilize recovered organic waste products and provide written documentation of such procurement to the jurisdiction.</b></p>	<p>The proposed regulations were revised in the previous draft to include a requirement that jurisdictions shall adopt ordinances or other enforceable mechanisms to requirement compliance with MWELo.</p>
6205	Hamilton, D., City of Oakland	<p>Electrification and Renewable Gas</p> <p>Jurisdictions like Oakland are increasingly moving toward requiring all electric buildings, including both new and existing buildings. Oakland's own Curbing Urban Emissions (CURB) analysis indicates that we cannot meet our carbon reduction</p>	<p>CalRecycle disagrees that RNG procurement are 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</p>

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		<p>targets if we are still burning gas in our buildings, even if it's renewable gas. The sooner we can electrify our buildings, the more revenue jurisdictions will have to invest in renewable, carbon-free electricity generation. A fully-electrified building stock will eliminate many anticipated end-uses for renewable gas. However, this legislation is right to encourage a move away from fossil-based gas, but must not stand in the way of a rapid transition to a completely clean energy economy based on a fully carbon-free electric grid. We are also rapidly electrifying the transportation sector due to the climate crisis, as well as for critical local public health concerns. However, there remain portions of the transportation sector that are more difficult to electrify, including certain heavy-duty trucks and certain bus fleets, due to equipment needs, electricity demand peaks, etc.</p>	<p>(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).” The following excerpts from the 2017 Scoping Plan additionally outline how renewable natural gas is viewed as necessary to reduce the state’s greenhouse gas emissions: • Organic matter can ... provide a clean, renewable energy source in the form of bioenergy, biofuels, or renewable natural gas (CARB 2017: ES12). • Moving forward, reducing use of fossil natural gas wherever possible will be critical to achieving the State’s long-term climate goals. For end uses that must continue to rely on natural gas, renewable natural gas could play an important role. Renewable natural gas volume has been increasing from approximately 1.5 million diesel gallon equivalent (dge) in 2011 to more than 68.5 million dge in 2015, and continued substitution of renewable gas for fossil natural gas would help California reduce its dependence on fossil fuels. In addition, renewable gas can be sourced by in-vessel waste digestion (e.g., anaerobic digestion of food and other organics) and recovering methane from landfills, livestock operations, and wastewater treatment facilities through the use of existing technologies, thereby also reducing methane emissions. The capture and productive use of renewable methane from these and other sources is consistent with requirements of SB 1383 (CARB 2017: 66). • Production and use of bioenergy in the form of biofuels and renewable natural gas has the potential to reduce dependency on fossil fuels for the transportation sector (CARB 2017: 89). 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. This text is reproduced as follows. Section 39730.8... (b) The energy commission, in consultation with the state board and the commission, shall develop recommendations for the development and use of renewable gas, including biomethane and biogas, as a part of its 2017 Integrated Energy Policy Report prepared pursuant to Section 25302 of the Public Resources Code. In developing the recommendations, the energy commission shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas, including biomethane and biogas, and their interactions with state policies, including biomethane and all of the following: (1) The Renewables Portfolio Standard program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code); (2) The Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations); (3) Waste diversion goals established pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code. (4) The market-based compliance mechanism developed pursuant to Part 5 (commencing with Section 38570) of Division 25.5; (5) The [Short-lived Climate Pollutant] strategy; (c) Based on the recommendations developed pursuant to subdivision (b), and to meet the state’s climate change, renewable energy, low-carbon fuel, and short-lived climate pollutants goals, including black carbon, landfill diversion, and dairy methane targets identified in the strategy, state</p>

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			<p>agencies shall consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, including biomethane and biogas; (d) Based on the recommendations developed pursuant to subdivision (b), the commission, in consultation with the energy commission and the state board, shall consider additional policies to support the development and use in the state of renewable gas, including biomethane and biogas, that reduce short-lived climate pollutants in the state..." Sections 39730.6 and 39730.8 of the Health and Safety Code were adopted concurrently with Section 42652.5 of the PRC as a part of SB 1383. In compliance with the statute, CalRecycle (a state agency) considered the recommendations of the IEPR, and as appropriate is proposing to adopt regulations that require the procurement of recovered organic waste products including renewable natural gas. With respect to a potential conflict with other state energy policies, such as those adopted by the California Public Utilities Commission (CPUC), and a push for electrification via solar and other renewables rather than use renewable natural gas, The CPUC consulted on the development of the 2017 IEPR, which per statute required the adoption of recommendations to increase the use of renewable natural gas in light of certain policies, included the renewables portfolio standard, the organic waste reduction targets, the low carbon fuel standard, and other environmental mandates. The regulations were specifically crafted, in consultation with CARB and CEC, to ensure that the policy does not discourage electrification or use of other alternative technologies. First, the procurement requirements applied to cities and counties do not specifically require the procurement and use of renewable natural gas. The procurement requirements specify that cities and counties must procure a certain amount of organic waste in the form of recovered organic waste products, of which one product is renewable natural gas when it is used for transportation, electricity, or heating. Second, jurisdictions capable of reducing or eliminating their use of fossil gas entirely could correspondingly reduce or eliminate its procurement obligation under the regulation. 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>
6206	Hamilton, D., City of Oakland	<p>We recommend the following regulations:  <b>Specify the portions of the economy that are most difficult to electrify, and target those for renewable gas (i.e. transportation technologies such as school buses and other heavy equipment, particularly those that would otherwise need to charge during the evening electricity demand peak).</b></p>	<p>CalRecycle disagrees with the comment's proposal to focus renewable fuel on heavy duty transport. The intent of the procurement regulations is to provide flexibility to jurisdictions in choosing recovered organic waste products that best fit local needs. A jurisdiction may choose to use those products for the most appropriate end use that fits local needs.</p>

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6207	Hamilton, D., City of Oakland	<p>We recommend the following regulations:  <b>Do not allow building end-uses for renewable natural gas, which have viable technologies and pathways for all-electric design and operation.</b></p>	<p>CalRecycle disagrees that RNG procurement are 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 states that “procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68).” The following excerpts from the 2017 Scoping Plan additionally outline how renewable natural gas is viewed as necessary to reduce the state’s greenhouse gas emissions:</p> <ul style="list-style-type: none"> <li>• Organic matter can ... provide a clean, renewable energy source in the form of bioenergy, biofuels, or renewable natural gas (CARB 2017: ES12).</li> <li>• Moving forward, reducing use of fossil natural gas wherever possible will be critical to achieving the State’s long-term climate goals. For end uses that must continue to rely on natural gas, renewable natural gas could play an important role. Renewable natural gas volume has been increasing from approximately 1.5 million diesel gallon equivalent (dge) in 2011 to more than 68.5 million dge in 2015, and continued substitution of renewable gas for fossil natural gas would help California reduce its dependence on fossil fuels. In addition, renewable gas can be sourced by in-vessel waste digestion (e.g., anaerobic digestion of food and other organics) and recovering methane from landfills, livestock operations, and wastewater treatment facilities through the use of existing technologies, thereby also reducing methane emissions. The capture and productive use of renewable methane from these and other sources is consistent with requirements of SB 1383 (CARB 2017: 66).</li> <li>• Production and use of bioenergy in the form of biofuels and renewable natural gas has the potential to reduce dependency on fossil fuels for the transportation sector (CARB 2017: 89).</li> </ul> <p>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. This text is reproduced as follows.</p> <p>Section 39730.8... (b) The energy commission, in consultation with the state board and the commission, shall develop recommendations for the development and use of renewable gas, including biomethane and biogas, as a part of its 2017 Integrated Energy Policy Report prepared pursuant to Section 25302 of the Public Resources Code. In developing the recommendations, the energy commission shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas, including biomethane and biogas, and their interactions with state policies, including biomethane and all of the following:</p> <p>(1) The Renewables Portfolio Standard program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).</p>

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			<p>(2) The Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations).</p> <p>(3) Waste diversion goals established pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code.</p> <p>(4) The market-based compliance mechanism developed pursuant to Part 5 (commencing with Section 38570) of Division 25.5.</p> <p>(5) The [Short-lived Climate Pollutant] strategy.</p> <p>(c) Based on the recommendations developed pursuant to subdivision (b), and to meet the state's climate change, renewable energy, low-carbon fuel, and short-lived climate pollutants goals, including black carbon, landfill diversion, and dairy methane targets identified in the strategy, state agencies shall consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, including biomethane and biogas.</p> <p>(d) Based on the recommendations developed pursuant to subdivision (b), the commission, in consultation with the energy commission and the state board, shall consider additional policies to support the development and use in the state of renewable gas, including biomethane and biogas, that reduce short-lived climate pollutants in the state..." [Emphasis added]</p> <p>Sections 39730.6 and 39730.8 of the Health and Safety Code were adopted concurrently with Section 42652.5 of the PRC as a part of SB 1383. In compliance with the statute, CalRecycle (a state agency) considered the recommendations of the IEPR, and as appropriate is proposing to adopt regulations that require the procurement of recovered organic waste products including renewable natural gas.</p>
6208	Hamilton, D., City of Oakland	<p>We recommend the following regulations:</p> <p><b>Include a ramp-up period or phased approach for jurisdictions and other fleet operators to transition their fleets;</b></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>
6209	Hamilton, D., City of Oakland	<p>We recommend the following regulations:</p> <p><b>Provide or identify incentives for fleet replacement.</b></p>	<p>The draft regulations do not mandate vehicle retrofits, rather they are designed to provide flexibility for jurisdictions in choosing the recovered organic waste product(s) that best fit local needs. Nothing in the draft regulations mandate vehicle retrofits to utilize renewable transportation fuel. A jurisdiction may choose to procure renewable transportation fuel, or may</p>



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			choose to procure other products altogether. Since there is no mandate to retrofit or replace vehicles, there is no corresponding increase in state funding for retrofits associated with these regulations.
6210	Hamilton, D., City of Oakland	Oakland is also concerned that these requirements could lead jurisdictions to either not consider landfill methane capture and refinement which is a potent greenhouse gas, for transportation fuel (or other uses); or divert efforts away from existing landfill methane capture systems to new waste organics methane capture, due to resource constraints ( e.g. new truck or equipment procurements). We recommend, at a minimum, the regulations allow existing landfill methane capture systems to count toward the total procurement target but assign them a <1 multiplier.	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.
6211	Hamilton, D., City of Oakland	Renewable natural gas (RNG) used for transportation fuel is a feedstock for hydrogen, which in turn is appropriate and even necessary to decarbonize certain very heavy-duty transportation operations. However, cities do not all own, operate or have jurisdiction over entities that operate the heavy-duty fleets such as barges or big-rigs that are the more appropriate uses for the hydrogen that can be made using RNG. These are typically found in special district fleets and operations.	Nothing in the proposed regulatory text prohibits a regional agency or special district from coordinating resources for procurement. 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). CalRecycle disagrees with revising language as it is unnecessary.
6212	Hamilton, D., City of Oakland	Special Districts necessarily must comply with procurement targets as they are defined as a "jurisdiction" within the regulations. However, cities have little to no authority over special districts within their borders and cannot enforce procurement requirements on them. <b>We recommend the regulations require special districts including but not limited to sea ports, heavy-duty fleet operators and other heavy equipment operators to report and cooperate with their host jurisdictions to meet recovered organic procurement targets and recycled content paper procurement requirements and that regulations require special districts to use a minimum amount of RNG/biomethane, either as compressed natural gas or as a feedstock for hydrogen fuel cells.</b>	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. 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).
3103	Hansen, K., California Restaurant Association	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.	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 receive food donations 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 restaurant generators 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 waste disposal rate data for California restaurants based on the occupancy of a facility was not available to support the proposed change.

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		<p>We appreciate the addition to the definition of “Edible food” which clarifies that any edible food donation must meet the food safety requirements of the California Retail Food Code. This added language may provide needed clarity to restaurants when determining which, if any, food items to donate to food recovery organizations.</p>	
3104	Hansen, K., California Restaurant Association	<p>Article 3 – Mandatory Organic Waste Collection Services</p> <p>We appreciate the addition of Section 18984.9 (d) which accommodates restaurants who are currently utilizing organic waste and non-organic recyclable disposal containers and providing them for their customers to use. Restaurants who are already engaging in these practices, prior to the SLCP regulations, have incurred a cost to implement these containers and should be allowed to use them until they are no longer functional at which point they can be replaced with containers that comply with the SLCP regulations.</p> <p>Thank you for providing 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, or authority 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 acknowledges this concern.</p>	Thank you for the comment. The comment is in support of current language.
3105	Hansen, K., California Restaurant Association	<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. Thank you for addressing our concerns and updating Section 18985.1 (c) to 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>	<p>Thank you for the comment. This comment is in support of current language. The regulations require that a jurisdiction employ either print or electronic methods in order to comply with the education and outreach requirements. In addition to either of those two methods, the jurisdiction may conduct outreach through the direct contact methods specified: workshops, meetings or on-site visits.</p>
3106	Hansen, K., California Restaurant Association	<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 standards in the current draft. 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</p>	<p>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</p>

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		<p>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.</p> <p>It is misguided and punitive 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. <b>Section 18990.2 (d) is problematic and needs to be removed from the final regulation.</b></p>	<p>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.</p>
3107	Hansen, K., California Restaurant Association	<p>We urge Cal Recycle to <b>revise Article 10 to include a provision to allow jurisdictions to grant de-minimis waivers and exemptions for edible food donations.</b> 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 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>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. 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><b>Section 18991.3 (c) (1-2) should be revised to provide for a de-minimis waiver for restaurants that generate a small amount of recoverable edible food.</b> We do not think Section 18991.3 (c) accurately reflects the current state of the restaurant industry. As we have previously stated, due to the high cost of food and labor, restaurants must judiciously use all of the food supply they order from distributors. There are not surplus left overs in the kitchen, all ordered food is used to cook menu items for our customers.</p> <p>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.</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 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 and the concern raised in this comment, 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. 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 is 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 quantities of food waste annually. Some of this food was recoverable. In addition, CalRecycle has a Food Waste Prevention and Rescue Grant Program that has awarded \$20 million dollars to food rescue and food waste prevention projects across the state. The Department currently has over 60 grantees through this grant program. Most of the grantees are food recovery organizations that report information about the pounds of food they collect, and where the food was collected 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 many larger restaurants in California that have edible food available for food recovery, and many restaurants in California are already doing great work donating their surplus edible food to support their local community.</p> <p>Regarding the comment that the SLCP regulation is silent on the standards by which food recovery organizations should hold or maintain edible food donations. The definition of “edible food” was updated to include language establishing that, “Nothing in this chapter requires or authorizes the</p>

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3108	Hansen, K., California Restaurant Association	<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. Additionally, we are concerned about the ability of local jurisdictions to ensure enough capacity for edible food recovery by January 1, 2024. <b>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.</b></p>	<p>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> <p>The regulations allow for a Corrective Action Plan (CAP) that provides additional time under specified conditions regarding delays in securing organics recycling capacity.</p>
3109	Hansen, K., California Restaurant Association	<p>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 drastically lower the fine amounts. <b>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.</b></p> <p>We are pleased to see the revisions to the penalty levels in Section 18997.2 (b) (1-3) from per day to per offense. Our members strive to comply with regulations and the goal of any regulation should be to work towards compliance. A per offense penalty is much more reasonable approach to achieving compliance.</p> <p>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.</p>	<p>The penalty language in Section 18997.2 was revised substantially during the rulemaking process to remove penalty tables and Level 1, 2 and 3 violations in favor language tying to applicable Government Code restrictions on penalty amounts for local jurisdictions. The regulations do not require jurisdictions to impose penalties for non-compliance until 2024, two years after the regulations are adopted, providing time for education and outreach.</p>
6172	Harrington, P., City of Berkeley	<p>Compostable plastics: Plastic bags should not be allowed in the green container. If plastic bags are to be allowed to be disposed of in the green container and provided the compost processing facility "can process <b>or remove</b> that material," we recommend this language be consistent for compostable bioplastics meeting the ASTM 06400 standard as well. Compostable bioplastics should only be allowed if the facility can "process, recover, <b>or remove</b>" them. <b>We recommend this language be updated in all sections, including Section 18984.4 Recordkeeping Requirements for Compliance with Organic Waste Collection Services and Section 18994.2 Jurisdiction Annual Reporting.</b> Also, we are concerned that compost processors will not want to put in writing that they accept compostable plastics because these</p>	<p>Comment noted. A change to the text is not necessary as the regulations adequately address the use of plastic bags used in the green containers. 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.</p> <p>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</p>

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		<p>"synthetic materials" may violate National Organic Program standards or Organic Materials Review Institute certification.</p>	<p>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.</p>
6173	Harrington, P., City of Berkeley	<p>Container lid colors: Berkeley has spent millions of dollars to implement and is committed to a dual-stream recycling program. Dual-stream recycling reduces residuals and keeps recyclables cleaner and more marketable. We are concerned about the color requirement impacts on Berkeley's dual-stream recycling program. Our residential dual-stream recycling program utilizes a split cart. The split cart body is blue. However, the lid on the containers (bottles/cans/ plastic containers) recycling side blue and the lid on the fiber (cardboard/paper) recycling is brown. This lid color contrast ensures residents differentiate between the two material stream types. Brown works well for fiber since the color is evocative of cardboard boxes and brown paper bags. By specifying dark blue for fiber and brown for food scraps, Berkeley City of Berkeley dual-stream recycling program split cart will be unable to utilize brown for the fiber side of our dual-stream recycling program. Please note that Berkeley's recycling program residual rate is less than 5%. We are concerned the switch from brown to blue will lead to cross contamination of the two recycling streams. One suggestion could be to mandate consistent container body colors, but allow greater flexibility in regards to lid colors, especially for programs with split carts.</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. 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>
6174	Harrington, P., City of Berkeley	<p>Route reviews: While we appreciate the change in frequency from quarterly to annual route reviews, we recommend that annual route reviews focus on commercial generators, instead of all collection routes. Single-family residential volumes tend to be steady with some seasonality and the material tends to be much cleaner than multifamily or commercial sector material. This change will allow our jurisdiction to focus the limited resources we have to where they have the most impact.</p>	<p>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. 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</p>

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			<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>
6175	Harrington, P., City of Berkeley	<p>Container exchanges: If containers will be changed to a different color, we recommend the exchange of carts be completed in batches or all at one time, as opposed to switching out individual containers at the end of their anticipated useful life. Switching out individual carts with new carts of a different color will most likely lead to confusion and its resulting contamination. This would also require us to provide educational material explaining the change in colors to individual residents and businesses when their carts reach the end of their useful life, which is not as efficient as providing information in batches to specific geographic areas or to all residents at once.</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>
6176	Harrington, P., City of Berkeley	<p>Allow designees to issue waivers: We ask that Cal Recycle restores the ability of cities to allow designees to issue waivers. Stop Waste currently issues waivers in Berkeley as part of the Alameda County Mandatory Recycling Ordinance (MRO). This reduces duplication of efforts and increases efficiency.</p>	<p>JPA's are included the definition of ‘Jurisdiction’ in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.</p>
6177	Harrington, P., City of Berkeley	<p>De minimis waivers: If total solid waste collection service is defined as all collection service (garbage, recycling, and organics), the threshold of what qualifies as de minimus should be based on the quantity of material in the <b>gray garbage container</b>, not based on the total amount of material the generator is already diverting in the recycling or compost containers.</p>	<p>There is nothing that prohibits the jurisdiction from having more restrictive criteria. The language does not limit de minimis waivers to three-container systems.</p> <p>Regarding part time residential waivers. CalRecycle is not able to quantify how much material would be exempt, and many of these residents would be captured under the low population waivers in Section 18984.12. Such a waiver could compromise the state’s ability to meet the organic waste reduction targets. CalRecycle does not concur with waiving to “part-time” residents as the term is undefined and could encompass a significant amount of waste generation when the property owner is in residence.</p>
6178	Harrington, P., City of Berkeley	<p>Food Waste Prevention and Edible Food Recovery: The biggest climate benefit is achieved through the prevention of food waste. We strongly recommend incorporating incentives to induce individuals and organizations to reduce food waste upstream of its disposal.</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</p>

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			<p>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. While this education is important for all commercial edible food generators, this education will be paramount for commercial edible food generators that dispose of edible food types that are not desired by food recovery organizations and food recovery services as these generators are still required to comply.</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 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>
6179	Harrington, P., City of Berkeley	Compost procurement: In alignment with the comments submitted by StopWaste, we support the need to build urban compost markets throughout the stat However, it would be more effective to base procurement targets on the potential for compost use in a jurisdiction to build healthy soil.	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 compost use, 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.
6180	Harrington, P., City of Berkeley	However, badly produced compost or compost with plastic in it does not have a market. We recommend that cities be allowed to refuse compost that does not	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

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		meet their specifications without being penalized. For cities that rely on composting to process organics, the use of renewable gas products to meet procurement targets is not realistic due to insufficient production.	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."
6181	Harrington, P., City of Berkeley	In addition, with the passage of SB 100, biogas is broadly regarded as a bridge fuel to electrification and actively opposed by the decarbonization community, not a long-term means to meet state goals or the procurement target. We also recommend that the state allow the procurement of mulch to meet targets that are established by those cities/agencies managing the food and green waste composting systems or vendors.	<p>CalRecycle disagrees that RNG procurement are 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 states that "procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68)." The following excerpts from the 2017 Scoping Plan additionally outline how renewable natural gas is viewed as necessary to reduce the state's greenhouse gas emissions:</p> <ul style="list-style-type: none"> <li>• Organic matter can ... provide a clean, renewable energy source in the form of bioenergy, biofuels, or renewable natural gas (CARB 2017: ES12).</li> <li>• Moving forward, reducing use of fossil natural gas wherever possible will be critical to achieving the State's long-term climate goals. For end uses that must continue to rely on natural gas, renewable natural gas could play an important role. Renewable natural gas volume has been increasing from approximately 1.5 million diesel gallon equivalent (dge) in 2011 to more than 68.5 million dge in 2015, and continued substitution of renewable gas for fossil natural gas would help California reduce its dependence on fossil fuels. In addition, renewable gas can be sourced by in-vessel waste digestion (e.g., anaerobic digestion of food and other organics) and recovering methane from landfills, livestock operations, and wastewater treatment facilities through the use of existing technologies, thereby also reducing methane emissions. The capture and productive use of renewable methane from these and other sources is consistent with requirements of SB 1383 (CARB 2017: 66).</li> <li>• Production and use of bioenergy in the form of biofuels and renewable natural gas has the potential to reduce dependency on fossil fuels for the transportation sector (CARB 2017: 89).</li> </ul> <p>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. This text is reproduced as follows.</p> <p>Section 39730.8... (b) The energy commission, in consultation with the state board and the commission, shall develop recommendations for the development and use of renewable gas, including biomethane and biogas, as a part of its 2017 Integrated Energy Policy Report prepared</p>



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			<p>pursuant to Section 25302 of the Public Resources Code. In developing the recommendations, the energy commission shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas, including biomethane and biogas, and their interactions with state policies, including biomethane and all of the following:</p> <p>(1) The Renewables Portfolio Standard program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).</p> <p>(2) The Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations).</p> <p>(3) Waste diversion goals established pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code.</p> <p>(4) The market-based compliance mechanism developed pursuant to Part 5 (commencing with Section 38570) of Division 25.5.</p> <p>(5) The [Short-lived Climate Pollutant] strategy.</p> <p>(c) Based on the recommendations developed pursuant to subdivision (b), and to meet the state's climate change, renewable energy, low-carbon fuel, and short-lived climate pollutants goals, including black carbon, landfill diversion, and dairy methane targets identified in the strategy, state agencies shall consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, including biomethane and biogas.</p> <p>(d) Based on the recommendations developed pursuant to subdivision (b), the commission, in consultation with the energy commission and the state board, shall consider additional policies to support the development and use in the state of renewable gas, including biomethane and biogas, that reduce short-lived climate pollutants in the state..." [Emphasis added]</p> <p>Sections 39730.6 and 39730.8 of the Health and Safety Code were adopted concurrently with Section 42652.5 of the PRC as a part of SB 1383. In compliance with the statute, CalRecycle (a state agency) considered the recommendations of the IEPR, and as appropriate is proposing to adopt regulations that require the procurement of recovered organic waste products including renewable natural gas.</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>
6182	Harrington, P., City of Berkeley	<p>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 5,600 tons of compost annually. To meet this procurement amount, the additional compost material alone would cost the City an estimated \$350,000 plus transportation and handling costs. We support the California League of Cities' recommendation to address procurement and work to develop markets for these materials in a separate regulatory proceeding.</p>	<p>The procurement requirements are designed to build markets for recovered organic waste products, not keep markets unchanged as the comment seems to suggest with the example of current compost procurement. CalRecycle developed an open and transparent method to calculate the procurement target that is necessary to help meet the highly ambitious diversion targets required by SB 1383. The compost giveaway examples provided in the comment would count towards the city's procurement target.</p> <p>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.</p>

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			CalRecycle disagrees with the suggestion for a “separate regulatory proceeding” for 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.
6183	Harrington, P., City of Berkeley	Annual reporting deadline: In order to reduce duplication of efforts and the amount of staff time dedicated to reporting, we ask that the initial annual reporting deadline align with the current EAR Cal Recycle reporting due dates. <b>We request that the due date for the report covering the period of January 1, 2022 through December 30, 2022 be due August 1, 2023.</b> This would remain consistent with current EAR and subsequent 581383 reporting deadlines. We do not believe it makes sense to report on the first half of 2022 twice.	This comment was made during the 45-day comment period and is not germane to changes made to the regulations in the 15 day comment period.
6184	Harrington, P., City of Berkeley	Frequency of waiver re-verification: We do not believe it makes sense to verify de minimis and physical space waivers every 24 months. This frequency would require us to dedicate resources on the smallest generators. It would be more impactful to focus our time on larger generators.	CalRecycle has revised section 189951.1(a)(6) in response to this comment. Section 18995.1(a)(6) has been revised to allow 5 years in between inspections of the de minimis and physical space waivers for compliance. It is the jurisdiction’s discretion to grant such waivers. It is necessary to revisit qualification for waivers to ensure circumstances have not changed that would make a waiver inapplicable.
6185	Harrington, P., City of Berkeley	Department requests for records: While we appreciate the change in reporting requirements from one day to ten days, we do not believe 10 business days is a reasonable amount of time to provide reports to the Department. In Berkeley, one staff person is responsible for all waste-related reporting. With many demands on staff time, and the possibility of the relevant staff person being out of the office when the request is made, it would be difficult to comply with a 10 day turn-around time. <b>Therefore, at a minimum, this should be a forty-five (45) day reporting deadline.</b>	A change to the regulatory text is not necessary. Section 18995.2 was previously changed to allow a 10-day turnaround time for providing the Department with access to the Implementation Record. This is not a reporting requirement but a record access requirement. It is the intent of the regulations that the Implementation Record will be maintained as current and up to date as possible, which would not cause a burden on a jurisdiction's staff resources when access is requested and 45 days is an excessive length of time to provide access to existing records.
6186	Harrington, P., City of Berkeley	Flexibility in record keeping: StopWaste has taken on aspects of generator compliance through the MRO on behalf of the City of Berkeley. This involves data management and storage of thousands of letters and photographs, which would be incredibly difficult, time-consuming and redundant to transfer copies of all of these documents to our jurisdiction monthly. For efficiency, we recommend that record-keeping requirements allow for portions of the implementation record to be held by designees, given that the record is readily accessible by Cal Recycle when requested.	This comment was made and was responded to in the 1st 45-day comment period and is not germane to the changes made to the regulations in the 1st 15-day comment period.
4310	Harrison, Harrison Industries	Section 18982.(a)(14.5) and (33) state that the facility meets or exceeds an annual average sources separated or mixed waste organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024 or 75 percent on and after January 1, 2025. This implies the recovery rate is based on current organic waste volumes. <b>We suggest this language be modified to say that the facility shall meet or exceed the “Organic Waste disposal reduction target”.</b> This further defines the recovery rate from the 2014 baseline as stated in the Amended Initial Statement of Reasons dated January 2019.	Comment noted. In order to achieve the organic waste reduction targets established in statute, facilities identified as designated source separated organic waste recovery facilities must recover minimum levels of the organic content they receive on an rolling basis. The organic waste reduction target is a statewide target, not a facility or jurisdiction target. The recovery efficiency requirements are necessary to achieve the statewide target and appropriately mirror the levels of the statewide target. Further, baseline facility rates from 2014 do not exist for individual facilities and establishing such a rate would be infeasible for a new facility that did not exist in 2014.

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4311	Harrison, Harrison Industries	<p>The regulation requires permitted facilities to process organic waste. We are currently in the process of permitting multiple organic waste processing facilities in the County of Ventura. One project is a 70-acre commercial compost center and another is a food recovery to feed facility. The first one has been in process since 2011 and is just now starting the EIR phase. The other obtained a categorical exemption from the provisions of the California Environmental Quality Act and has been in planning since 2016. Both of these projects are only waiting for permitting so they can be constructed and available to use by the customers/jurisdictions we serve.</p> <p>We estimate that the County of Ventura will require at least 560 tons per day and 840 tons per day of new organic waste processing infrastructure to satisfy the organic reduction targets by 2022 and 2025 respectively. What is the compliance pathway for a jurisdiction or entity when the required infrastructure will most likely not be operational by 2022 and possibly not even by 2025?</p>	<p>The regulations include a provision to allow for a Corrective Action Plan if a jurisdiction has demonstrated substantial effort and has extenuating circumstances. CalRecycle has also provided an accommodation with a waiver from the collection requirements for rural jurisdictions and after 2025 for low population jurisdictions.</p>
4312	Harrison, Harrison Industries	<p>Section 18993.1. says a jurisdiction shall procure organic waste products. Do the product materials and finished products need to be generated and/or produced and consumed within the jurisdictional boundary?</p>	<p>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.</p>
4252	Heaton, S RCRC, League of Cities, SCAC, Rural Counties ESJPA, CRRC Northern and Southern Districts, Waste Management, Recology, Waste Connections, SWANA, Sanitation Districts of LA County, CWRA. Athens Services, Recycling and Waste Reduction Commission S	<p>I write to formally request an extension of the current comment period on the Short-lived Climate Pollutants (SLCP): Organic Waste Reductions Proposed Regulation Text Second Formal Draft (Second Draft), released June 18, 2019, from 15 days to 45 days. RCRC is an association of thirty-six rural California counties, and the RCRC Board of Directors is comprised of an elected supervisor from each of those member counties.</p> <p>The Second Draft contains significant changes to the initial draft of the SLCP regulations that will take time for stakeholders to properly analyze. The 165-page document contains changes on nearly three-quarters of the pages, including replacement of some entire sections, and even the smallest changes could have profound impacts on jurisdictions and solid waste facilities. Sufficient time to review and comment on these changes is vital in order to analyze how the new language compares to the original proposal and evaluate implementation of the changes.</p>	<p>Comment noted. CalRecycle has provided the time for comment that is prescribed by OAL regulations. Maintaining this time schedule is necessary to allow the finalization and adoption of the regulations in sufficient time for jurisdictions to prepare before the statutorily mandated effective date of January 1, 2022.</p>
4253	Heaton, S., RCRC, Allard, J. City of Roseville, League of Cities, SCAC, Rural Counties ESJPA, CRRC Northern and Southern Districts, Waste Management, Recology, Waste Connections, SWANA, Sanitation Districts of LA County,	<p>We also believe it is imperative to conduct a longer comment period in order to hold at least one more public workshop so that staff can discuss the changes with stakeholders. We believe the interaction between staff and stakeholders for this complex rulemaking continues to be invaluable, and while the June 18th workshop was appreciated, another public workshop after stakeholders have had time to digest the changes will be incredibly important. We also believe that an extended comment period will not negatively impact the California Department of Resources Recycling and Recovery’s (CalRecycle) implementation deadlines and will only result in a better all-around final product.</p>	<p>Comment noted. Although CalRecycle appreciates that the commenter would like additional time, CalRecycle has provided the time for comment that is prescribed by OAL regulations. Maintaining this time schedule is necessary to allow the finalization and adoption of the regulations in sufficient time for jurisdictions to prepare before the statutorily mandated effective date of January 1, 2022.</p>

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	CWRA. Athens Services, Recycling		
4603	Heaton, RCRC	<p>Organic Waste Collection Services Containers</p> <p>We support the changes to the container requirements, as they provide clarity and are helpful.</p>	<p>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.</p>
4604	Heaton, RCRC	<p>Container Contamination Minimization</p> <p>Reducing the container contamination monitoring route review from quarterly to annually is appreciated. The Proposed SLCP Regulations now include an alternative to the container contamination monitoring annual route review, waste evaluations conducted every six months. It appears this method would require a separate collection run for the collection of the sample containers, a sorting area where random sampling of the contents occur, and then determining the ratio of contaminants for each container type. This appears to be even more labor intensive than the route review and RCRC suggests this also be on an annual basis.</p> <p>Providing this alternative is appreciated but the term “route” used for determining the number of samples is confusing. There are daily routes for a specific truck or route areas of a community that are served by a number of trucks on a certain day of the week. The average garbage truck only has capacity for 600 to 800 residential stops per day. Collection at commercial generator routes may be significantly less per day. Some customers are served on an on-call basis and are not part of a designated route. <b>The term “route” needs a definition for the purposes of this draft.</b> The proposed regulations sampling methodology is confusing in terms of the number of samples per each range of customers and taking a 200-pound sample of each container stream. The relationship to the number of generators to sample and the size of the samples needs to be clarified.</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 evaluations 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. However, what constitutes a “hauler route” is dependent upon the designated itinerary or geographical configuration of the jurisdiction’s waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction’s collection system may consist of one continuous itinerary, another jurisdiction’s routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction’s education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction’s affected routes, thereby reducing contamination and increasing the recoverability of organic waste.</p> <p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
4605	Heaton, RCRC	<p>Waivers and Exemptions</p> <p>Most important to our member counties is the inclusion of various provisions for waivers and exemptions to the organic waste collection requirements. The Proposed SLCP Regulations include a delay of implementation of the residential organic collection service to the same rural jurisdictions (counties with a population of less than 70,000) that received a five-year delay from the mandatory commercial organic waste diversion requirements. This delay is valid until 2025 or until five years after the CalRecycle determines that the statewide disposal of organic waste has not been reduced to 50 percent of the 2014 level of disposal, whichever is later. In addition, the Proposed SLCP Regulations include a provision for rural areas of counties with populations of 70,000 or greater to apply to CalRecycle for up to a five-year waiver (previously two) for census tracts located in unincorporated areas</p>	<p>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 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</p>

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		<p>of the county that have a population density of less than 75 persons per square mile (previously 50) or incorporated cities with a total population of less than 7,500 people (previously 5,000) and less than 5,000 tons of solid waste as reported in 2014.</p> <p>This allowance is helpful but there are circumstances where the population within a census tract is concentrated in one or two areas on the fringe of the census tract. For example, one census tract in a rural county has a density of 85 people per square mile in a census tract that is 86.2 square miles, but 81% of the population resides in only 37% of the census tract all concentrated on one side. If the criteria applied the same 75 people per square mile criteria to the census block groups within that tract, the excluded portion would have a density of 26 people per square mile but covers 63% of the area of the census tract (see Attachment B) Refers to Attachment B - See Letter for Attachment B. <b>We request that there be a process that allows for these large census tracts to use the census blocks or block groups with the same 75 people per square mile.</b> These changes help to address the challenges of collection in rural areas throughout the state.</p>	<p>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>
4606	Heaton, RCRC	<p>As previously stated, RCRC is most appreciative of the proposed waivers and exemptions provided for rural jurisdictions and low-population areas. 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 specified in the Organic Waste Collection Services article until 2025. While this is helpful to rural jurisdictions, <b>we request reconsideration that these counties be exempted from the entire Chapter.</b></p> <p>It is not productive to mandate these counties participate in the various other organic programs for the small percentage of benefits received. As an example, the Tehama County Solid Waste Management Agency (TCSWMA) has estimated it will take three to five additional full-time equivalents (FTEs) to implement the remainder of the new requirements. The TCSWMA currently has a staff of three FTEs to conduct all aspects of their solid waste management programs. There are nineteen (nearly one-third) of the state's counties that qualify for the Rural Exemption and represent only 4 percent of the State's total solid waste stream. It also seems difficult to justify the state spending any of their valuable resources ensuring compliance with one-third of the state's counties for such a small fraction of the organic waste stream.</p>	<p>Thank you for the comment. The comment is in support of the current language. Rural jurisdictions are temporarily exempt from organic waste collection requirements under the regulations for a period of five years, this mirrors provisions of AB 1826 which delayed organic waste collection requirements by five years. Rural jurisdictions are also waived from the procurement requirements which. These exemptions reflect unique circumstances that make it harder for these areas of the state to comply with the regulations. There is no evidence that a rural jurisdiction cannot comply with the other requirements of chapter 12 such as providing edible food recovery services to their businesses and residents.</p>
4607	Heaton, RCRC	<p>The new waiver exempting areas located at or above the 4,500-foot elevation from the requirement to include food waste in their organic waste collection service is extremely helpful where food waste collection is a public safety issue in bear habitat. However, there are areas in the state that have bear populations below that elevation that also have public safety issues with food waste collection (such as Butte County and Del Norte County) that should be able to submit a request for this waiver. Included in Attachment C (SEE LETTER FOR ATTACHMENT C) are excerpts of various bear related activities under the 4,500-foot elevation. <b>RCRC understands</b></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>

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		<p><b>this may add a tremendous workload to CalRecycle and suggests the entire elevation/bear territory waivers be delegated to jurisdictional approval and reporting and be included in Section 18984.11.</b></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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 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 &lt;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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			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.
4608	Heaton, RCRC	Finally, 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.	The regulations include a provision to allow for a Corrective Action Plan if a jurisdiction has demonstrated substantial effort and has extenuating circumstances. CalRecycle has also provided an accommodation with a waiver from the collection requirements for rural jurisdictions and after 2025 for low population jurisdictions.
4609	Heaton, RCRC	Emergency Circumstances, Abatement, and Quarantined Materials The "temporary" equipment or operational failure has been replaced with "unforeseen" equipment or operational failure. <b>RCRC believes that the operative word should remain "temporary" which would include unforeseen circumstances.</b> Equipment maintenance may be scheduled or unforeseen that will impact the ability to process material. Additionally, it needs to be clarified whether the organic waste landfilled due to the temporary or equipment failure is counted as organics disposal.	The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal. Thank you for the comment. CalRecycle corrected the spelling of 'unforeseen.' No additional changes are necessary for adding "temporary" as the text already has "temporarily" further in the sentence.
4610	Heaton, RCRC	The disaster and emergency waivers also need clarification that the disposal waiver of organic materials does not count towards organic disposal. There is no safe means to process organics from quarantine areas and homeless encampments.	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. The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.
4611	Heaton, RCRC	The addition of the waiver for the separation and recovery of organic waste from homeless encampments and illegal disposal sites, as well as organic waste subject to quarantines, are thoughtful and important additions to protect public health and safety. It needs to be clarified whether the organic waste landfilled due to these waivers is counted as organics disposal.	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. The regulations state that a jurisdiction may dispose of

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			organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.
4612	Heaton, RCRC	<p><b>Education and Outreach</b>  Education and outreach are critical components of any successful solid waste diversion and disposal program. As proposed, the requirement for providing information in languages other than English is confusing. The proposed regulatory text proposes a more extensive requirement than referenced in the previous version and in the amended Initial Statement of Reasons. The proposed regulatory text is also more extensive than the current requirements used by Public Health Department's in providing essential health information. We recommend that the regulations utilize the same current standards as Local Public Health Departments so that current resources can be utilized rather than developing a more extensive and expensive infrastructure further increasing the cost of these proposed regulations.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
4613	Heaton, RCRC	<p><b>CalGreen Building Standards and Model Water Efficient Landscape Ordinance</b>  Both these standards are already existing ordinance requirements under the authority of the Building Departments within the jurisdictions. These requirements have enforcement authorities of their own so that inclusion in SB 1383 regulations is excessive. Therefore, if these requirements are included in the Proposed SLCP Regulations, these regulations need to acknowledge that CalRecycle's enforcement authority is over the jurisdiction's appropriate department for implementing the requirements and not a part of the jurisdiction's solid waste agency review. It is inappropriate to expect our solid waste managers to manage the actions of other departments within the jurisdiction. It is much like CalRecycle staff cannot dictate the actions and are not held responsible for the Air Resources Board or the State Water Quality Control Board.</p>	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 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.
4614	Heaton, RCRC	<p><b>Jurisdiction Edible Food Recovery Programs</b>  Much like the above requirements, edible food recovery programs are not under the purview or expertise of our solid waste managers. This program is more appropriate to be delegated to social services departments that are familiar with the various programs available to residents of the jurisdiction, or even Environmental Health Departments that oversee the safe handling of food intended for public consumption. Again, it is unsuitable to expect our solid waste managers to manage the actions of other departments within the jurisdiction.</p>	Section 18981.2 Implementation Requirements on Jurisdictions 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, “(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 departments. (c) Notwithstanding Subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter.”
4615	Heaton, RCRC	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	The comment is noted. The commenter is stating an opinion but is not requesting a change in the regulatory language.



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		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.	
4616	Heaton, RCRC	It is common knowledge that California does not have sufficient infrastructure capacity today to handle the quantity 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.	The regulations allow for a Corrective Action Plan (CAP) that provides additional time under specified conditions regarding delays in securing organics recycling capacity.
4617	Heaton, RCRC	<b>Since capacity planning is already a requirement of the Electronic Annual Reports (EAR), any additional capacity planning requirements should be added to the existing EAR process</b> and not create a separate obligation for jurisdictions which could potentially result in redundant and possibly contradictory reporting.	A change to the regulatory text is not necessary. CalRecycle anticipates the capacity planning will be reported in the Electronic Annual Reporting System. The capacity planning is inclusive of the AB876 requirements and Regional Agencies should be able to report in coordination with the county and cities.
4618	Heaton, RCRC	The expansion of the range of renewable natural gas uses that count towards a jurisdiction's procurement target was appropriate and in direct response to the many stakeholder requests to do so. However, mulch, which is easier and less costly to process, has more potential for use in rural counties, and has water saving benefits, is still not allowed as procurement.	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
4619	Heaton, RCRC	While market development is a crucial component of the success of meeting our organics diversion goals, RCRC still believes that the SLCP Regulations should not be the vehicle to address this issue. We suggest that procurement be removed from the proposed regulations and that it be an all-encompassing (state and local government) effort. As we stated in our previous letter to CalRecycle dated March 4, 2019, we believe this procurement mandate was not authorized by SB 1383 and constitutes an unfunded mandate.	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

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			<p>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. Regarding authority, 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. 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." 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. 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." 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>

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			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.”
4620	Heaton, RCRC	<p>Enforcement</p> <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.</p> <p>There are many factors for a decision-making body to consider when establishing programs that are reasonable and economically feasible. A program in solid waste is not compared to just other solid waste programs, but weighed against the need for every other program impacting that same jurisdiction. The decision-making bodies have a myriad of programs to consider ranging from, but not limited to, social services, public health, environmental health, economic development, land development, to public safety. The benefits of a program are considered against the public's overall needs. For instance, in rural counties, the cost of every new program gets compared to how many deputy sheriffs could be funded with those same dollars.</p> <p>State agencies, such as the BDOs in CalEPA, work independently from each other, without consideration of how to reach an end goal that benefits the public in the broader picture. It appears that State agencies are focused on only their area of protection. Local jurisdictions do not have that luxury. The decision-making bodies of the local jurisdiction live in the jurisdiction, are a part of their communities, and answer to their constituents on a daily basis. Their decisions have to take into consideration the broad picture.</p>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
4621	Heaton, RCRC	While penalty requirements were reduced, we still 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	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.

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		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.	
4622	Heaton, RCRC	It is inappropriate to call these regulations goals and targets with such a prescriptive set of penalties imposed on our residents, industry partners, and local jurisdictions. The way these regulations are written constitutes an unfunded state mandate. It is even more inappropriate when the State entities, federal agencies, and schools, who are large contributors to the organic waste stream, have no consequence for non-compliance other than getting put on a "list-of-shame."	<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>
4623	Heaton, RCRC	Facility Sampling and Loadchecking - Most sites, especially landfills, will not have time to sort out loads delivered late in the day in order to obtain representative samples of a typical collection day and still have time to finish daily operations and cover the landfill.	CalRecycle has deleted the loadchecking requirements at landfills in response to comments.
4624	Heaton, RCRC	Facility Sampling and Loadchecking - Reviewing all routes may take up to two weeks.	CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17407.5.7 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

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			<p>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>
4625	Heaton, RCRC	Facility Sampling and Loadchecking - Small scales will be needed to weigh samples and contaminants	<p>CalRecycle has revised Sections 17409.5.9 in response to comments. The amendment to Section 17409.5.9 will allow facilities that meet the RDRS thresholds to use a conversion factor in lieu of scales. These changes will align with the adopted AB 901 regulations (RDRS).</p>
4626	Heaton, RCRC	Facility Sampling and Loadchecking - Some sites may take both mixed and source separate organics, so it seems double sampling is required (or even three or four sets). The gray waste stream sorting will also have similar issues.	<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. 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:            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>
4627	Heaton, RCRC	Facility Sampling and Loadchecking - Some sites may not have a spot to conduct the activity or may require a permit change to designate an area or new activity.	<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>

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			<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 loadchecking:            CalRecycle has deleted the loadchecking requirements and replaced it with the gray container waste evaluations under Section 17407.5.7 in response to comments. The changes reduced the number of waste evaluations and frequency of samples that will now be required. 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>Whether an activity will need a permit action 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.</p>
4628	Heaton, RCRC	Facility Sampling and Loadchecking - Gray waste container sampling is required to be sampled at the transfer stations and then again at landfills. This seems duplicative and unnecessary.	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
4629	Heaton, RCRC	Facility Sampling and Loadchecking - Many rural transfer stations are only open a few days a week. To collect samples for 10 consecutive operating days would mean sampling would occur 5 out of every 12 weeks for a facility operation only two days a week and would increase staffing significantly.	A change to the regulatory text is not necessary. The requirement is for the operator to take samples for 10 consecutive operating days, which means the operator would take samples for 10 days in a row that they are operating. In your example, if the facility is opened two days a week then samples would need to be taken for five consecutive weeks. The sampling would only be required to be taken one per quarter. In addition, Section 17409.5.9 allows a facility operator to request an alternative to the measurement protocol, which may include a reduced sampling frequency that can be approved by the LEA with concurrence by the Department.
4630	Heaton, RCRC	Many rural communities, particularly in the foothill and mountainous communities, produce very little organic material that warrants collection and processing. Tuolumne County recently conducted a survey at their main transfer station and found that very little yard waste or food waste was brought to the transfer station for disposal. Most residents explained that they either compost food waste or use it for animal feed. Brush is taken to a chipping facility or left onsite but is not handled in the solid waste collection system. RCRC would like the opportunity to come up with alternatives to collection for our rural areas and develop a performance-based goal for rural counties and areas that would also exempt them from monitoring and sampling, reporting, capacity planning, and/or other requirements.	Comment noted. CalRecycle includes rural waivers in the regulations.
4631	Heaton, RCRC	Section 18981. 2. Implementation Requirement on Jurisdictions (d) This revision does not allow "a jurisdiction to delegate its authority to impose civil penalties, or maintain an action to impose civil penalties, to a private entity". Many jurisdictions delegate to a contractor the responsibility for implementing their solid waste programs. These agencies charge fees for service and in some cases, they may impose penalties for failure to abide by requirements. It should be made	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.

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		clear that the delegated contractor has the authority to impose these additional collection fees.	
4632	Heaton, RCRC	<p>(14.5) Designated Source Separated Organic Waste Facility (page 5)  <b>This section should be limited to only the definition and not the operational requirements, which should be addressed later in the proposed regulations.</b> The requirements for determining recovery rates in (A)(1) and (B)(1) are extremely restrictive and do not offer much opportunity for a transfer/processor or composting facility or operation to adjust. An activity exceeding these thresholds will become ineligible for a jurisdiction to direct their materials and thus will be unable to remain viable unless they accept materials from sources that are not required to use a "Designated Source Separated Organic Waste Facility". There is also no process that allows for an activity exceeding these thresholds to return to good standing.</p> <p>There is also not requirement to notify jurisdictions. These entities report to CalRecycle on their performance. CalRecycle should be required to immediately notify source jurisdictions of the site disqualification.</p>	<p>Comment noted. The commenter is not requesting a specific policy change that would have a regulatory effect. The comment requests that the language defining designated source-separate organic waste facility be moved to elsewhere in the regulation. CalRecycle disagrees and believes more clarity is provided by including pertinent standards that apply to a designated source separated organic waste facility in the definition.</p> <p>Regarding the comment on returning good standing. A facility's qualification as a designated source separated organic waste facilities is determined on a rolling annual average threshold. The determination occurs every quarter and is self-executing. A facility either meets the threshold or not. It is unnecessary to establish a specific process for a facility to return to its status.</p> <p>CalRecycle will inform jurisdictions implementing a performance-based source-separated organic waste collection service if the facility they select is no longer a designated source separated organic waste facility. 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>
4633	Heaton, RCRC	<p>28) "Gray container" (page 7)  This definition should be corrected as follows: <b>"Hardware such as hinges and wheels on a gray container may be a different color."</b></p>	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say 'gray' instead of 'green.'
4634	Heaton, RCRC	<p>(33) "High diversion organic waste processing facility" (page 7)  This definition is confusing in that it is based upon the organic waste received from "Mixed Waste Organic Waste Collection Stream" as defined in Section 17402 (a)(11.5) of this division." The definition of "Mixed Waste Organic Waste Collection Stream" in Section 17402 (a)(11.5) is limited organic waste collected in the blue or gray container. Should a "High diversion organic waste processing facility" be based upon the processing efficiency of managing all carts?</p>	CalRecycle has revised Section 17402 (a)(11.5) 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 with the requirements of Sections 18984.1, 18984.2, and 18984.3.
4635	Heaton, RCRC	<p>(46) "Organic waste" (page 9)  Some items defined as organics, such as manure, paper, food, and textiles, should not be placed all in the same container since these products will contaminate each other and make diversion nearly impossible. Although not specifically listed, dead animals (domestic and other) are classified as "organic". Disposal of dead animals in a landfill is a common practice due to the lack of rendering capacity. <b>The proposed regulations should clarify that dead animals will continue to be accepted at landfills and not be required to be placed in the green container as organics.</b></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>
4636	Heaton, RCRC	<p>(46) "Organic waste" (page 9) Also, the definition is not used consistently throughout the proposed regulations. For example, the three-container Organic Waste Collection Services prohibits some organics in the green container (e.g. carpets and non-compostable paper are prohibited from the green container,</p>	"Organic waste" and "remnant organic material" are two different terms used for different purposes in the regulations and are therefore not inconsistent. The measurement of remnant organic material from gray container waste evaluations are designed to measure overall performance in diverting organic waste from landfills but jurisdictions are not penalized for the presence of organic material in these containers.

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		<p>section 18984.1(a)(5)(A)). Gray containers received by a solid waste facility will undergo periodic evaluation for “remnant organic” material” (section 17409.5.7 (a)). The organics in the gray container will be used to evaluate a jurisdictions effectiveness even though some organics are not allowed in the green container. If these items are placed in the gray container, will the jurisdiction be penalized by the presence of these materials?</p>	
4637	Heaton, RCRC	<p>Section 18983.1 Landfill Disposal and Recovery. (page 12)  (a) (1) This revised section categorically considers any organic material used as Alternative Daily Cover (ADC) and Alternative Intermediate Cover (AIC) to be considered disposal. Currently, only green materials used as ADC or AIC is considered disposal (Public Resources Code (PRC) Section 41781.3 (2)(A)). PRC Section 41781.3 (a)(1) provides that except for green material, other solid wastes used are considered diversion thus further limiting non-green material as ADC is in conflict with this section of the Public Resources Code. This change would classify several waste-derived materials that have traditionally been approved as ADC as disposal including; construction and demolition waste, compost, sludge, and even shredded tires made from petroleum. The revised Initial Statement of Reasons indicates the basis for this change is to reduce methane. Finished compost has undergone sufficient change so that any methane generation is minimal thus contradicting the methane generation rational. This change will nearly eliminate the concept of waste-derived material as ADC. This requirement should continue to allow the existing approved ADCs including finished compost and continue the current requirements for allowing other ADC materials after the approval demonstration.</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.  Comment noted, finished compost is not organic waste.</p>
4638	Heaton, RCRC	<p>Section 18983.1 Landfill Disposal and Recovery. (a)(2) Material recovery fines have been an effective ADC. The proposed regulation requires the fines to not include any amount of organic material. A threshold of zero organics in material recovery fines is not achievable. This strict limitation will result in fines being disposed of as a solid waste, but the fines would get flagged as an organic contaminant during the gray container evaluation. This section should be eliminated or modified to allow incidental amounts of organics or have the fines undergo a process to reduce the amount of organics present. Zero organics is not achievable without applying thermal energy.</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>
4639	Heaton, RCRC	<p>Article 3. Organic Waste Collection Services (page 16)  This article contains requirements for collection and management of organics and other wastes. One issue that applies to all processing of collected material at facilities is that some border counties have their solid wastes and materials transported to other states that are not subject to California requirements for managing wastes. CalRecycle cannot impose requirements on these out-of-state facilities.</p>	<p>The regulations do not impose requirements upon out-of-state facilities. The regulations impose requirements upon jurisdictions, organic waste generators and California solid waste facilities. Jurisdictions are responsible for ensuring that their disposition of solid waste complies with regulatory requirements and cannot avoid these responsibilities by transporting its waste out of the state.</p>



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4640	Heaton, RCRC	<p>Section 18984.1. Three-container Organic Waste Collection Services (page 17)</p> <p>(a)(5)(B) Composite-lined solid waste landfills (Class III) with Waste Discharge Requirements that specifically allow treated wood waste to be commingled with solid waste are not required to segregate the treated wood waste from solid waste. These approved landfills allow treated wood waste to be accepted as solid waste and therefore should not be prohibited from placement in the gray container. Imposing a more restrictive standard will contribute to illegal dumping. The most likely problem of contamination will be if hazardous wood waste is placed in the green container. This section should be changed as follows:</p> <p><b>(B) Hazardous wood waste shall not be collected in the green container</b></p>	<p>This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a></p> <p>CalRecycle will provide jurisdictions the guidance from DTSC.</p> <p>For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.</p>
4641	Heaton, RCRC	<p>Section 18984.2. Two-container Organic Waste Collection Services (page 19)</p> <p>(a)(1) The two-cart container system with green and gray containers prohibits non-organic material into the green container. Therefore, any materials eligible for the blue container will need to be placed in the gray container. Depending upon the subsequent processing of the containers, a jurisdiction might want to have blue container eligible recyclables placed in the green container. Using bags or other containers for the recyclables might be an option. Allowance of blue container eligible recyclables into either the green or gray containers provides a jurisdiction with more flexibility.</p> <p>(a)(2) Similarly, allowing contained organics into the blue container for the blue and gray container option will also allow flexibility.</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 made a corresponding change to the regulation to the color requirements for two container collection services.</p>
4642	Heaton, RCRC	<p><b>(c) Same comment as Section 18984.1. (a)(5)(B) above. SEE COMMENT 4640</b></p>	<p>This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a></p> <p>CalRecycle will provide jurisdictions the guidance from DTSC.</p> <p>For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.</p>
4643	Heaton, RCRC	<p>Section 18984.3. Unsegregated Single-Container Collection Services (page 21)</p> <p>The exceedance levels are extremely restrictive and do not offer much opportunity for a transfer/processor or composting facility or operation to adjust. An activity exceeding these thresholds will become ineligible for a jurisdiction to direct their materials and thus will be unable to remain viable unless they accept materials from sources that are not required to use these "Designated Source Separated Organic Waste Facility". There is also no process that allows for an activity exceeding these thresholds to return to good standing.</p>	<p>Regarding the standards and the minimum recovery efficiency, the standards were set at the minimum level necessary to achieve the statutory targets. See statement of purpose and necessity for Section 18984.3.</p> <p>Regarding the comment on returning good standing, a facility's qualification as a designated source separated organic waste facilities is determined on a rolling annual average threshold. The determination occurs every quarter and is self-executing. A facility either meets the threshold or not. It is unnecessary to establish a specific process for a facility to return to its status.</p> <p>CalRecycle will inform jurisdictions implementing a performance-based source-separated organic waste collection service if the facility they select is no longer a designated source separated organic waste facility. 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. Further the regulations include a process under the Corrective Action Plan (CAP) which could extend the compliance timeline.</p>

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4644	Heaton, RCRC	Section 18984.3. Unsegregated Single-Container Collection Services There is also not requirement in the proposed regulations to notify jurisdictions of the failure of the processing facility to achieve the required diversion until the jurisdiction receives a violation from CalRecycle. These entities report to CalRecycle on their performance. CalRecycle should be required to immediately notify source jurisdictions of the site disqualification.	A change to the regulatory text is not necessary. Jurisdictions will get noticed if their facilities are not meeting their annual recovery efficiency based on the quarterly reports submitted to the Department. Enforcement action would not happen immediately. The jurisdiction would be given an opportunity to implement programs to help increase recovery. A facility would have to be in violation for three reporting quarters before a jurisdiction gets a violation.
4645	Heaton, RCRC	Section 18984.5. Container Contamination Minimization (page 22) (b)(2) This section allows a jurisdiction to dispose the contents of a green or blue contaminated container, but (4)(A) requires consent of a jurisdiction prior to disposal “of a container with visible prohibited container contaminants”. The proposed language is not clear on whether that consent is required per each container or if blanket consent, with conditions, can be granted to a contractor.	CalRecycle has removed Section 18984.5(b)(4)(A). The change is necessary to clarify that a hauler does not have to get approval on a case-by-case basis but rather can obtain prior consent from the jurisdiction for disposing of container with prohibited container contaminants.
4646	Heaton, RCRC	Section 18984.5. Container Contamination Minimization (b)(3) This section allows a jurisdiction to impose additional contamination processing fees on a generator if container contaminants are found on more than three consecutive occasions. <b>This provision should also be extended to a jurisdiction’s designee that services the routes.</b> However, this is under the section of annual container contamination minimization, which could mean it could take four years before the fee could be imposed.	The regulations already allow for a jurisdiction to designate certain responsibilities to designee. There is nothing in the regulations that prohibits a jurisdiction from adopting contamination processing fees at any time.
4647	Heaton, RCRC	Section 18984.5. Container Contamination Minimization (c)(1)(C) The requirement that “samples taken from different areas in the jurisdiction that are representative of the jurisdiction” will require that if multiple jurisdictions are collected each individual jurisdiction will need to be sampled individually. This situation occurs often where a city limit is intertwined with a county area along the same street or area. In many cases, a single load can contain multiple jurisdictions that cannot be separately analyzed unless each jurisdiction is collected separately. Separate sampling is an excessive requirement.	Comment noted. Samples for waste evaluations must be jurisdiction specific in order to be valid. Waste evaluations are an optional method for a jurisdiction to use to comply with the contamination monitoring requirements, a jurisdiction does not have to choose this regulatory pathway.
4648	Heaton, RCRC	Section 18984.5. Container Contamination Minimization In addition, the waste composition study will need to be conducted over a period of at least five to seven days since it takes that long to collect from an entire jurisdiction. This time period will double if the collection frequency of a container type is increased to bi-weekly.	Comment noted. Samples for waste evaluations must be jurisdiction specific in order to be valid. The duration of time necessary to collect the required sample may vary as noted by the commenter. However, if this is problematic, waste evaluations are an optional method for a jurisdiction to use to comply with the contamination monitoring requirements, a jurisdiction does not have to choose this regulatory pathway.
4649	Heaton, RCRC	Section 18984.5. Container Contamination Minimization (c)(1)(D) This requirement tiers the number of samples by ranges of the number of generators. The specified ranges overlap. If there are exactly 4,000 generators on the routes, are 25 or 30 samples required. There is a similar overlap with the routes with 7,000 generators.	CalRecycle agrees that additional clarity is needed. Therefore, language has been changed.
4650	Heaton, RCRC	Section 18984.5. Container Contamination Minimization The proposed language is also unclear on what constitutes “routes”. This term is no defined and common usage varies. A driver is assigned a specific “route” in one day that is extremely unlikely to have thousands of generators in that day. A jurisdiction	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 evaluations 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

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		can be divided in larger “routes” so that the material in a jurisdiction is collected over a period like five days. <b>A clearer definition of what “routes” is needed.</b>	contamination minimization efforts in order to increase detection of container contamination by generators. However, what constitutes a “hauler route” is dependent upon the designated itinerary or geographical configuration of the jurisdiction’s waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction’s collection system may consist of one continuous itinerary, another jurisdiction’s routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction’s education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction’s affected routes, thereby reducing contamination and increasing the recoverability of organic waste.
4651	Heaton, RCRC	Section 18984.5. Container Contamination Minimization Routes with less generators will need to sample a greater percentage of customers. A “route with 1,000 generators will need to take 25 samples or 2.5%. A “route” with 8,000 customers will take 40 sample or 0.5%. Smaller routes should not have to sample 50 times more samples.	CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.
4652	Heaton, RCRC	Section 18984.5. Container Contamination Minimization There is no guidance on how large a sample size from each route is required. There has to be enough sample volume to allow for taking a 200 pound sample as required in (c)(1)(E)(1). It is disproportionate, to take a 200-pound sample from 25 samples and also a 200-pound sample of 40 samples.	Thank you for the comment. The comment is in support of the current language. 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. CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs. Thank you for the comment. In response to this comment and other stakeholders, CalRecycle modified the sample size and required that each hauler route must be sampled annually.
4653	Heaton, RCRC	Section 18984.5. Container Contamination Minimization (c)(1)(E) This requirement indicates that, “All of the material collected for sampling is transported to a sorting area at a permitted solid waste facility” indicates that the samples are collected first and then transported to a permitted facility. Since the collected containers were heading to a permitted facility anyway the sampling should occur at the permitted facility. <b>This language should be changes as follows: The sampling of the routes will occur at the sorting area at a permitted solid waste facility</b>	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. Samples for waste evaluations must be jurisdiction specific in order to be valid. Waste evaluations are an optional method for a jurisdiction to use to comply with the contamination monitoring requirements, a jurisdiction does not have to choose this regulatory pathway.

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			<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. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
4654	Heaton, RCRC	<p>Section 18984.5. Container Contamination Minimization</p> <p>The requirement to transport all the collected material for sampling to a sorting area a to a permitted solid waste facility may not be realistic depending upon the facility's permits and available space. Some permitted facilities are required to identify such operational areas in their Report of Facility Information so a permit change may be needed. Many smaller permitted facilities, especially in rural areas, lack adequate space to conduct such an activity so the samples will need to be transported to a more distant facility.</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>

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			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.
4655	Heaton, RCRC	Section 18984.5. Container Contamination Minimization (c)(2) The list of methods to contact generators is limited. Some jurisdictions may have the ability to notify the target generators with electronic means such as emails, text, or even localized electronic applications like Nextdoor. Electronic notifications can be a cheaper and more expeditious method of notifying an area. Electronic notifications also avoid paper generation and additional organic waste.	Comment noted. The regulations are proposed for adoption two years prior to their effective date, providing CalRecycle time to educate jurisdictions and other regulated entities.
4656	Heaton, RCRC	Section 18984.5. Container Contamination Minimization (e)(1) The reference to section 17409.5.1 includes a subsequent reference to a demonstration that the facility is a "high diversion organic waste facility". The definition of "high diversion organic waste facility" has an issue identified earlier in the comments on section 18982 (a)(33) that needs to be fixed.	Comment noted. This comment is essentially a repeat of comment 4634 regarding "high diversion organic waste processing facility." CalRecycle responded to that comment.
4657	Heaton, RCRC	Section 18984.5. Container Contamination Minimization In addition, <b>the recover percentage needs to be revised as follows so that it is not limited by only the exact number of 75%:</b> <b>(1) Pursuant to Section 17409.5.1, the solid waste facilities processing the jurisdictions green container collection stream recover at least 75 percent of the organic content received at the facility.</b>	The section referred to by the commenter was deleted from the proposed regulations.
4658	Heaton, RCRC	Section 18984.7. Container Color Requirements (page 25) A common practice is to conduct minor repairs on a container, such as wheel, handle, or lids, so that the container can return to functionality. <b>These minor maintenance activities should be clearly allowed to continue until January 1, 2036 rather than replace the entire container for minor issues.</b>	If a container can have minor repairs and still be functional, then it does not need to be replaced prior to 2036.
4659	Heaton, RCRC	Section 18984.9 Organic Waste Generator Requirements (page 27) <b>As indicated in comments on Section 18984.7, minor maintenance repairs should be allowed and not render a container not functional.</b>	If a container can have minor repairs and still be functional, then it does not need to be replaced prior to 2036.
4660	Heaton, RCRC	Section 18984.12 (a) and (c) These sections should clearly specify that the exemption is from the Organic Waste Collection Services Article 3, including the annual container contamination minimization requirements. In addition, local jurisdictions need to have the ability to appeal to CalRecycle when lack of easily accessible organic facilities, the greenhouse gas impact tradeoffs, or other unique situations for a proposed area occur that are beyond the reasonable ability of the jurisdiction based upon the local circumstances and conditions. <b>RCRC recommends adding:</b> <b>(e) A local jurisdiction may apply to CalRecycle for a waiver for a proposed area based upon the local circumstances and conditions that are beyond the reasonable ability of the jurisdiction, such as lack of easily accessible organic facilities, the greenhouse gas impact tradeoffs or other unique situations that</b>	The language states that the exemption is for some or all of the requirements of Article 3. An eligible jurisdiction would not be required to comply with this requirement. CalRecycle has revised Section 18984.13(a)(2) in response to this comment. The change is add that it can be all or some of the jurisdiction's waste, and also to correct a typo. The change is necessary to reflect that the word 'prevent' implies it refers to all of the waste and 'impair' implies it refers to some of the waste. Both of these may apply in this type of waiver situation. 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, CalRecycle has also provided an accommodation with a waiver from the collection requirements for rural jurisdictions and after 2025 for low population jurisdictions.

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		<p><b>occur. CalRecycle may require evidence as deemed necessary to process such a request Section 18984.13. Emergency Circumstances. Abatement, and Quarantined Materials (page 31)</b></p> <p><b>This language should be revised as follows:</b></p> <p><b>(2) A jurisdiction shall notify the Department ... the facility that experienced the temporary equipment or operational failure preventing, or impairing, it from receiving the jurisdictions waste.</b></p>	
4661	Heaton, RCRC	<p>Section 18984.12. Waivers and Exemptions Granted by the Department</p> <p>(c) Similar to the existing waiver from disaster and emergency wastes counting as disposal, the wastes from homeless encampments and illegal disposal sites should not count as disposal tonnage against a jurisdiction. Often, these wastes cannot not safely be diverted, and landfilling is the safest option. A jurisdiction should not be penalized for this diversion nor should these wastes be targeted for sorting under the gray container waste evaluations in section 17409.5.7 and section 20901.</p>	<p>The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.</p>
4662	Heaton, RCRC	<p>Section 18985.1. Organic Waste Recovery Education and Outreach</p> <p>(e) Education and outreach are a critical component of any successful solid waste diversion and disposal program. As proposed, the requirement for providing information in languages other than English is confusing. The proposed regulations state the standard is “any language that is spoken by more than 10,000 persons or 0.5% of the jurisdiction’s residents, and the population speaking that language speaks English less than very well”. First, there is no reference cited for the term “speaks English less than very well”. The Initial Statement of Reasons (ISOR) for the previous version of regulations indicates the source is the U.S. Census but the ISOR indicates a standard of “if more than five percent of a jurisdiction’s generators are defined as “Limited English Speaking Households” or “linguistically isolated””. Another limitation of the U.S. Census is that each non-English language designation uses an “Other” category to consolidate some languages. For example, the 2010 Census values for the County of Fresno lists a more than 0.5% number of “Other Indic languages” but the listed specific language are not individually over the 0.5% threshold.</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>
4663	Heaton, RCRC	<p>Section 18985.1. Organic Waste Recovery Education and Outreach</p> <p>The typical Public Health Standard to provide materials is “substantial number of non-Englishspeaking people” “and who comprise 5 percent or more of the people served by the statewide or any local office or facility of a state agency” (California Government Code Section 7296.2). It seems an inappropriate public policy to have solid waste education and outreach more stringent that essential public health requirements.</p> <p><b>We recommend that the proposed regulations use the current public health standard of five percent of a “substantial number of non-English-speaking people”.</b> This will allow a jurisdiction to utilize existing language resources and not invest in establishing a more stringent standard.</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>

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4664	Heaton, RCRC	Section 18985.1. Organic Waste Recovery Education and Outreach In addition, whatever source is utilized for determining the number of languages for materials that the regulations allow time to develop materials in any additional languages identified.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
4665	Heaton, RCRC	Section 18986.1. Non-Local Entities Requirements (page 36) (c)(1)(B) As indicated in earlier comments on section 18984.1. and section 18984.2, treated wood waste is allowed to be commingled with solid waste in approved facilities. This reference should be changed to prohibit hazardous wood waste from the green container.	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
4666	Heaton, RCRC	Article 7. Regulations of Haulers Section 18988.3. Self-haulers of Organic Waste (page 40) This section imposes excessive requirements on individuals that self-haul their own organic wastes. Residential organic waste generators are not required to record or report their information but still must source-separate and haul their organics to a "high diversion organic waste processing facility". Many rural, residential self-haulers transport their wastes to local small or limited volume transfer stations rather than larger facilities significantly further away. These remote rural transfer operations would not qualify as a "high diversion organic waste processing facility" since collected wastes are then transported to another facility. Many rural transfer operations consist of simply one or two debris boxes for all wastes. Some may have limited options for segregated recyclables or even organics that are transported elsewhere for processing. As proposed, these remote rural operations would be prohibited from accepting self-hauled organic wastes. The waivers and exemption in section 18984.12 only apply to Article 3 and not this article. <b>This requirement should be removed since it contradicts the waiver provisions in section 18984.12.</b>	This is addressed in Section 18988.3(c). There is no contradiction as the subsection states the generator does not have to comply with this section if they are in an area that has received a waiver.
4667	Heaton, RCRC	Article 11. Organic Waste Recycling Capacity Planning (page 46) Throughout this article, there are numerous references to county obligations to coordinate, comply, and identify various requirements of these regulations, e.g. the county coordinates with cities and regional agencies. When there is a CalRecycle approved Regional Agency, that Regional Agency functions as the main coordinating entity with the unincorporated county and cities. In one case the approved Regional Agency includes two counties. The proposed references for counties to coordinate with Regional Agencies negates the concept and responsibilities of a Regional Agency. All references in this article and the entire packet should recognize that role of a Regional Agency in coordinating with the county and cities.	A Regional Agency is allowed to act on behalf of the jurisdiction depending on the specificity in the Regional Agreement. A Regional Agency may act on behalf of a county.
4668	Heaton, RCRC	Section 18992.1. Organic Waste Recycling Capacity Planning (page 46) (a)(1)(B) This section allows a jurisdiction to use a local waste characterization study which is much appreciated. Some jurisdictions do not fit neatly into the averages developed in the statewide waste characterization studies coordinated by CalRecycle. A local waste characterization study provides a jurisdiction insight into	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

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		<p>specific waste categories in their area and allows for targeting additional categories. A local waste characterization study could be developed by expanding a Gray Container Waste Evaluation proposed in Section 20901.</p> <p>Unfortunately, the advantage of a local waste characterization study is obliterated since the proposed regulations allow CalRecycle's most recent waste characterization study to override the local study. Currently, CalRecycle has been conducting waste characterization studies at two to five-year intervals. Local waste characterization studies are expensive, and the local waste characterization study should be allowed to remain in effect for these planning requirements for at least ten years.</p>	<p>extended period of time if local demographics, etc., do not change significantly. CalRecycle already allows for five years, which provides flexibility to jurisdictions. Given the impacts of the regulations CalRecycle expects the waste stream to significantly change, such that a ten-year old waste characterization study would not be reflective of the organic waste stream.</p>
4669	Heaton, RCRC	<p>Section 18992.1. (c)(3)(D) As indicated in comments on section 18985.1 (e), this requirement has issues. In addition, the reference on line 13 is incorrect. <b>The reference should be to 18985.1 (e) and not (f).</b></p>	<p>Thank you for the comment. CalRecycle has revised section 18992.1(c)(3)(D) to align with the linguistic education revisions in Section 18985.1(e).</p>
4670	Heaton, RCRC	<p>Section 18992.3. Schedule for Reporting (page 50)</p> <p>Since capacity planning is already a requirement of the Electronic Annual Reports (EAR), any additional capacity planning requirements should be added to the existing EAR process and not create a separate obligation for jurisdictions which could potentially result in redundant and possibly contradictory reporting.</p>	<p>A change to the regulatory text is not necessary. CalRecycle anticipates the capacity planning will be reported in the Electronic Annual Reporting System. The capacity planning is inclusive of the AB876 requirements and Regional Agencies should be able to report in coordination with the county and cities.</p>
4671	Heaton, RCRC	<p>Article 12. Procurement of Recovered Organic Waste Products (page 51)</p> <p>Section 18993.1. Recovered Organic Waste Product Procurement Target (b)(1) The increase of the per capita procurement target from 0.07 to 0.08 tons of organic waste is a 14.3% increase and compounds an already excessive requirement.</p>	<p>The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from CalRecycle's Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.</p>
4672	Heaton, RCRC	<p>Article 13. Reporting</p> <p>Section 18994.2. Jurisdiction Annual Reporting (page 55)</p> <p>As discussed in comments on Section 18992.3, the required reports should be included in the appropriate Electronic Annual Reports and not create a new reporting requirement that may duplicate other reporting requirements.</p>	<p>A change to the regulatory text is not necessary. The annual reporting dates required in Section 18994.2 do align with the current reporting dates for the Electronic Annual Report, both due on August 1st of each year. Reporting for the first year, jurisdictions complying with Section 18994.1 may report for the January 1, 2022 through June 30, 2022 on October 1, 2022, otherwise their first report is due August 1, 2022. Each subsequent report shall cover the entire reporting year and is due August 1 of the following year.</p>
4673	Heaton, RCRC	<p>Article 13. Reporting</p> <p>Section 18994.2. (b)(5) The allowance for plastic bags requires recovery of the bags. This would apply even if the bags are compostable and the jurisdiction has approved their use as in sections 18984.1 and 18984.2.</p>	<p>A change to the regulatory text is not necessary. Section 18994.2(b)(5) states that if a jurisdiction is allowing organic waste to be collected in plastic bags, it must identify the facilities that can accept and remove the plastic bags. It is the jurisdiction's discretion to allow plastic bags and if they recycle the plastic bags.</p>
4674	Heaton, RCRC	<p>Article 14. Enforcement Requirements</p> <p>Section 18995.4. Enforcement by a Jurisdiction (page 62)</p> <p>As of January 1, 2024, a jurisdiction shall start enforcement with financial penalties. A jurisdiction may grant extensions to the deadlines but is not allowed to consider extenuating circumstances other than acts of God or permit delays. Similar to other requirements such as in the RDRS regulations Section 18815.10), there should be an</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15 day comment period.</p>



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		opportunity to notify organic waste generators of potential violations with an opportunity to correct the violations before imposing financial penalties.	
4675	Heaton, RCRC	Section 18997.2. Penalty Amounts (page 70) This section imposes mandatory penalties without regards to circumstances. A jurisdiction has no discretion in regard to imposing penalties. Given the lack of organic infrastructure in many areas of California, jurisdictions will be forced to impose penalties while they are still trying to implement programs. The comments on Section 18995.4 also apply here to allow an opportunity to notify and fix a potential violation before imposing financial penalties.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
4676	Heaton, RCRC	Article 16. Administrative Civil Penalties for Violations of Requirements of This Chapter (page 73) The penalty requirement under “Hauler Requirement Section 18988.3(b)” does not acknowledge the residential organic self-haul exemption under section 18988.3 <b>(b)(4). This requirement should be revised as follows: A generator who is a self-hauler fails to comply with the requirements of subsection 18988.3(b) unless exempted under subsection 18988.3 (b)(4) and (c).</b>	A change to the regulatory text is not necessary. A change to the text is not necessary because Section 18988.3(4) was deleted from the revised July 18th, 15-day comment period draft regulations.
4677	Heaton, RCRC	Section 18997.3. Department Penalty Amounts (page 75) Two of the violations conflict with each other. A jurisdiction can select both a three-container (section 18984.1) collection and two container collection (section 18984.2) for their collection options but if a jurisdiction selects one or the other they could get a violation not implementing the other program. This requirement should be modified so that a jurisdiction will not get a violation if only one of the container collections is adopted.	A change to the regulatory text is not necessary. Section 18984(c) is added to the revised July draft regulations to clarify that a jurisdiction may provide any combination of organic waste collection services specified in Sections 18984.1, 18984.2 and 18984.3 to generators subject to its authority. The violations for a three container collection service would be related to not implementing that service as prescribed in Section 18984.1 and the same with a two container service. Each chosen compliance choice is specific to the requirements of that corresponding section of the regulations.
4678	Heaton, RCRC	Section 17409.5.1. Organic Waste Recovery Efficiency. (page 111) This requirement imposes requirements on “transfer and processing facilities and operations that conduct processing activities”. Nearly all transfer/processing facilities and operations have some form of processing activities even if just providing self-serve bins for customers. Thus, these requirements would apply to nearly all facilities and operations.	Comment noted. Yes, the measurement protocol is required to be performed by all transfer and processing facilities or operations that process waste, as defined in Section 17402(a)(20) of the existing regulations. This is necessary in order to determine the level of efficiency of a facility to separate organic material for recycling.
4679	Heaton, RCRC	Section 18997.2 Penalty Amounts (page 91) (e) The process for determining penalties for lack of procurement and does not directly allow for extenuating circumstances such as in section 18997.2 (d). <b>There should be explicit allowances for circumstances in subsection (e).</b>	CalRecycle has revised Section 18997.3 in response to comments. Section 18897.3 has been revised to clarify that the penalties for recovered organic waste product procurement shall be imposed administratively by the Department pursuant to Section 18997.3(d) and may consider the factors listed in subsection (c) when determining the penalty.
4680	Heaton, RCRC	Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream. (Page 113) and Section 17409.5.3. Measuring Organic Waste in Material Removed from Mixed Waste Organic Collection Stream for Disposal. (page 114) and Section 17409.5.3. Measuring Organic Waste in Material in Residuals Removed from Mixed Waste Organic Collection Stream for Disposal. (page114) and Section 17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream. (page115)	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

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		<p>The sampling protocols of these sections are not realistic. Issues include:            Taking a random composite sample that is representative of a typical operating day and taken throughout a day would require sampling loads received near the end of the operating day. Sites would need to close public access early or extend operating hours to allow time to take and process the samples. Equipment and staff would be waiting for the sampling to be completed, costing time and money.            The additional time required and the designated area for sampling may require solid waste facility permit changes.</p>	<p>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.            Whether an activity will need a permit action is not within the scope of the rulemaking. However, EA's should consult with their CalRecycle Permitting Point of Contact for any resources pertaining to permit actions.</p>
4681	Heaton, RCRC	<p>Section 17409.5.5. Measuring Organic Waste in Materials Removed from Source Separated Organic Waste Collection Stream for Disposal. (page 116)            In addition to the issues listed above:            Many disposal facilities do not track jurisdiction of origin as material comes in, instead it allocated by the hauler in arrears. This is consistent with AB 901 requirements.            Gray container waste may be mixed with multiple jurisdictions before it arrives to a disposal facility.</p>	<p>A change to the regulatory text is not necessary. The sampling requirements in Section 17409.5.5 requires the samples to be done over a period of 10 consecutive operating days not by jurisdictions.             In addition, the gray container waste evaluations are 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 to conduct one waste evaluation per quarter, not by jurisdiction.</p>
4682	Heaton, RCRC	<p>Article 6.2 Operating Standards            Section 17409.5.7 Gray Container Waste Evaluations (page 119)            Although an evaluation of gray carts can be one means of determining disposed organics for diversion and evaluating a jurisdiction's compliance efforts, the sampling requirements imposed in this section are unrealistic and excessive for the following reasons:            Facilities serving many jurisdictions would be required to dedicate significant resources to conducting this evaluation.            Multiple jurisdictions may be collected on the same vehicle so a per jurisdiction evaluation cannot be conducted without collecting each jurisdiction separately during this evaluation.            The requirement to maintain five years of records is excessive. Most other regulatory requirement limit retention to three years.            Smaller facilities and operations that receive gray container wastes are not equipped to dedicate resources to an evaluation and some lack sufficient space.            Many rural attended transfer operations and facilities are staffed by a single employee that is not prepared to conduct evaluations.            Many rural attended transfer operations and facilities accept gray container wastes from self- haulers and consist of self-serve compaction containers. There is not generally the facility space or infrastructure to provide sanitary conditions appropriate to the public.</p>	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.             The requirement to have records be accessible for five years aligns with the adopted AB 901 regulations (RDRS).</p>

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4683	Heaton, RCRC	Section 17409.5.7.1. Gray Container Waste Evaluations– Frequency (page 120) This section calls out facilities, but most small transfer/processing are considered solid waste operations. This section should use both facilities and operations consistently.	A change to the regulatory text is not necessary. Section 17409.5.7 states that the operator of an attended transfer/processing operation or facility. Therefore, this section already covers both solid waste operations and facilities.
4684	Heaton, RCRC	Section 17409.5.7.1. (a) The exemption for facilities with less than 100 tons per calendar year equates to 548 pounds per day, roughly a one cubic yard per day. The number of facilities or operations that meet this exemption are almost non-existent. The Recycling and Disposal Reporting System has an exemption level for scale at 100 tons per day and 200 tons per day for rural areas. This same standard should be used for this exemption from conducting gray container evaluations.	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4685	Heaton, RCRC	Section 17409.5.7.1. We recommend the following revisions: <b>(a) If a facility received less than 100 tons per day in the gray container collection stream from a jurisdiction during the previous calendar year, no waste evaluations shall be conducted on the incoming gray container collection stream from that jurisdiction for the current 12-month period.</b>	CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4686	Heaton, RCRC	Section 17409.5.7.1. We recommend the following revisions: <b>(b) If a facility received between 100 and less than 500 tons per day in the gray container collection stream from a jurisdiction during the previous calendar year, two (2) waste evaluations shall be conducted on the incoming gray container collection stream from that jurisdiction per quarter for the current 12-month period.</b>	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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, and not by jurisdiction. 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.
4687	Heaton, RCRC	Section 17409.5.7.1. We recommend the following revisions: <b>(c) If a facility received between 500 and less than 1000 tons per day in the gray container collection stream from a jurisdiction during the previous calendar year, three (3) waste evaluations shall be conducted on the incoming gray container collection stream from that jurisdiction per quarter for the current 12-month period.</b>	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.

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4688	Heaton, RCRC	<p>Section 17409.5.7.1. We recommend the following revisions:  <b>(d) If a facility received 1000 tons or greater per day in the gray container collection stream from a jurisdiction during the previous calendar year, five (5) waste evaluations shall be conducted on the incoming gray container collection stream from that jurisdiction per quarter for the current 12-month period.</b></p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>
4689	Heaton, RCRC	<p>Section 17409.5.7.2. Gray Container Waste Evaluations - Measuring Remnant Organic Material. (page 120)  This requirement identifies a number of unrealistic requirements including:  Taking a random composite sample that is representative of typical operating day and taken throughout a day would require sampling loads received near the end of the operating day. Sites would need to close public access early or extend operating hours to allow time to take and process the samples. Equipment and staff would be waiting for the sampling to be completed, costing time and money.  The additional time required and the designated area for sampling may require solid waste facility permit changes.  Many disposal facilities do not track jurisdiction of origin as material comes in, instead it allocated by the hauler in arrears. This is consistent with AB 901 requirements.  Gray container waste may be mixed with multiple jurisdictions before it arrives to a disposal facility.</p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>
4690	Heaton, RCRC	<p>Article 6.2, Section 17409.5.9 (Page 122)  The use of alternatives to scales, such as volume conversion for small facilities, was extensively discussed throughout the AB 901/Recycling and Disposal Reporting System which was recently approved. The criteria are already established in section 18815.9 (g) and include additional flexibility for rural areas especially site that lack power to operate a scale. The cost of a scale for small sites has never been justified and these proposed regulations should not impose excessive and unnecessary requirements on jurisdictions, operators, EAs and CalRecycle to approve a concept that has successfully been operating for nearly 20 years.  <b>This section should be revised as follows:</b>  <b>(b) When required by this article, the operator shall report tonnages using a scale or report the tonnages using a method described in Section 18815.9(g).</b></p>	<p>CalRecycle has revised Sections 17409.5.9 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) and with the approvals of alternatives pursuant to this section.</p>
4691	Heaton, RCRC	<p>Article 8. Composting Operation and Facility Records, Section 17869. General Record Keeping and Reporting Requirements (page 132)  (e)(5) It is understandable for CalRecycle and EAs to be concerned with improper land application but requiring composters to track the use of compostable materials to an address, parcel number, or other equivalent physical location is excessive and impractical and ignores the concept of how composting markets work. A composter</p>	<p>CalRecycle has revised Section 17896 in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of the total weight of compostable material sent off site to any destination other than to permitted solid waste facility or operations. This was necessary to lessen the burden on</p>

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		<p>provides materials to individuals and/or entities in small amounts and in bulk amounts. The composter should not be responsible for tracking the actual or intended use of the material. A user of compostable materials may appropriately change the use of the material after leaving the composter site. <b>This requirement should be deleted as excessive.</b></p>	<p>the operators from collecting information that may not be readily available to them. This change requires operators to include information they should already have available. This is necessary to ensure that the material sent off to a destination that is not a permitted solid waste facility was processed to a level that meets the physical contamination limits standards.</p>
4692	Heaton, RCRC	<p>Article 9.25, Section 18815.5 (e) (page 146)  <b>(e) The numbering has two (e). The second (e) should be changed to (f) and the old (f) should be changed to (g) in this section and in any references in the entire packet.</b>            The use of a rolling quarterly recovery efficiency does not adequately allow for seasonal fluctuations or changes in waste flows. A longer period should be used. Calculating a new annual average every quarter based upon the immediately preceding quarters could result in jurisdictions having to change facilities too often resulting in increased transportation costs and would require contract negotiations with multiple sites.            The recovery efficiencies are reported to CalRecycle but there is no requirement on when or who notifies the jurisdictions of the rates.</p>	<p>CalRecycle has revised Section 18815.5 accordingly.            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.            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.            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>
4693	Heaton, RCRC	<p>Section 20901 (page 153)            Many of the concerns expressed in comments for section 17409.5.7 (gray container waste evaluation for attended transfer/processing) are also applicable to this disposal facility standard.            (b) and (c) Gray container collection in a collection vehicle may include multiple jurisdictions. Under the recently adopted RDRS reporting system, the jurisdiction of origin can be provided at a later date (section 18815.9 (b)(1)). Conducting this evaluation by a specific jurisdiction may not be possible for mixed loads.</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations that receive a gray container collection stream and more than 500 tons of solid waste from at least one jurisdiction annually to conduct one waste evaluation per quarter, not by jurisdiction. The purpose of the gray container waste evaluations 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>
4694	Heaton, RCRC	<p>Section 20901  <b>(e) Standard record retention time is three years and this proposal should be changed to three years instead of five.</b></p>	<p>CalRecycle has deleted Section 20901 in response to comments.</p>

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4695	Heaton, RCRC	<p>Section 20901.1. Gray Container Waste Evaluations– Frequency (page 154)            (a) The same concerns on the evaluation frequency under comments on section 17409.5.7.1 also apply here. The exemption for 100 tons per year is of almost no benefit since there are few disposal sites that qualify. <b>The levels should be increased to be per day and not year.</b></p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
4696	Heaton, RCRC	<p>Section 21695 (page 164)            (i) Landfills in the State are already regulated under CCR Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Sub article 6: Methane Emissions from Municipal Solid Waste Landfills. This regulation requires surface monitoring that checks the integrity of the cover whether it is considered daily, intermediate, or final. If the cover doesn't meet these regulatory performance standards, immediate remediation is required to bring it back to standard. <b>This requirement for surface monitoring should be deleted and only refer to the existing ARB surface monitoring requirements to avoid duplication and overlap between agencies.</b></p>	<p>CalRecycle has deleted Section 21695 (i) in response to comments.</p>
4697	Heaton, RCRC	<p>Section 21695 (i)(4) There are no criteria specified on how an operator or EA can determine that intermediate cover is not as effective as final cover.</p>	<p>CalRecycle has deleted Section 21695 (i) in response to comments.</p>
4366	Helget, Republic Services	<p>The industry and local governments will need to upgrade existing infrastructure that was built for compliance with AB 939 and add a significant amount of new and in some cases unproven facilities and technologies to process and reuse the more than 20 million tons of additional organics diversion required by SB 1383. We will simply need more time to achieve the contamination standards at our facilities.            Therefore, when we again ask that you approach these regulations cautiously and deliberately, it is out our concern that we get this right rather than impose a regulatory structure that cannot be effectively implemented by jurisdictions, haulers and solid waste facilities. We offer our recommendation in that light, in hopes that the final product will be one that we can endorse and effectively implement.</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>
4367	Helget, Republic Services	<p>1. Funding and Infrastructure Expansion            Given the magnitude of the estimated cost of implementing these regulations and the ever rising infrastructure costs associated with SB 1383, we continue to believe that these regulations as written will cost ratepayers well over the \$21 B estimated in CalRecycle's Standardized Regulatory Impac Assessment (SRIA). We hope that the final supporting documents for these regulations will recognize the magnitude of the impact that these regulations will have on local programs that have been designed and funded under the AB 939 construct.</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</p>

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			<p>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> <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>
4368	Helget, Republic Services	<p>ARTICLE 1</p> <p>2. "Composting operation" or "composting facility" (Page 5 line 25): Compost overs at compost facilities typically have more than 10% organic waste. Per our initial comment letter, please clarify that if overs with 10% or more organic waste used at a LF as beneficial reuse or ADC constitute disposal or diversion? Does the non-organic fraction in the overs that goes to ADC count as diversion? As written, a compost facility must be below 10% organics in our overs going to landfills for disposal, beneficial reuse or ADC after January 1, 2022.</p> <p>The 10% organic content standard is also used to determine whether a facility is a "Designated Source Separated Organic Waste Facility" which in turn sets a standard for whether a jurisdiction meets the requirements for a Performance-Based Source Separated Collection Service. (Article 17 - Page 93-97).</p> <p><b>Recommendation: We believe that the 10% organic content provision needs to be reconsidered and at a minimum revised to allow a phase-in on the requirements at compost operations and landfills.</b></p>	<p>The material a compost facility sends to disposal must be sampled according to the sampling frequency established in the regulations. The presence of organic waste in that material is used to determine the percent of organic content in the material the facility sends to disposal, which would in turn be used to determine if the facility qualifies as a designated source separated organic waste facility. ADC and AIC are forms of landfill disposal under the regulation. Organic material sent from a compost facility to ADC or AIC must be counted as disposal when sampled. Non-organic material sent to disposal is not considered organic waste disposal or organic waste diversion.</p>
4369	Helget, Republic Services	<p>3. Organic Waste Definition (Page 9): During the July Workshop, staff was asked if the definition of organics in the June Regulations included plastics. The staff response was "No".</p> <p><b>Recommendation: We recommend that the definition be modified to specifically state that plastics are not included in the definition. We also suggest that plastics be clearly defined to include material consisting of any of a wide range of synthetic or semi-synthetic organic compounds.</b></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. 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>
4370	Helget, Republic Services	4. Renewable Natural Gas Definition (Page 10)	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

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		<p>The definition of "renewable gas" without any justifiable reason and/or scientifically supported analysis, is limited it to gas derived from in-vessel digestion of organic waste only. The regulations should expand the definition of "renewable gas" to include gas derived from other technologies, including biomass conversion utilizing thermal conversion technologies such as gasification and pyrolysis, methane gas generated from municipal solid waste landfills since it is biogenic in origin, and any other technologies that are determined to constitute a reduction in landfill disposal pursuant to Section 18983.2.</p>	<p>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 expanding "renewable gas" to include gas from biomass conversion, 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. 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> <p>Regarding methane from landfills, 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>
4371	Helget, Republic Services	<p>ARTICLE 2 5. Non-Disposal Activities 12" Restriction: Republic has consistently commented that nondisposal activities should include all forms of beneficial reuse including slope stabilization, landscaping, revegetation and erosion control. The current draft regulations include erosion control and landscaping, revegetation or slope stabilization. We appreciate that the regulations now include slope stabilization and revegetation. Revegetation and slope stabilization activities occur daily on construction projects throughout the state. 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 <b>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.</b></p>	<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.</p>
4372	Helget, Republic Services	<p>Material Recovery Fines: The June 17 Regulations introduce a new restriction on material recovery fines (MRF fines) used as alternative daily cover (ADC) (Page 12, lines 39-41). This new restriction would eliminate any organics materials from MRF fines used as ADC. As broadly as organics are defined, it is impossible to remove all organics from MRF fines, so the regulations impose an impossible standard. Also a 0% organics restriction flies in the face of the 75% organics reduction target of SB 1383.</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</p>



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		<p><b>Recommendation: We also recommend that the 0% organics restriction be replaced with the more practical requirements contained in Section 18983.1 (b)(S)(A)- (C) on Page 13, lines 20-29.</b></p>	<p>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>
4373	Helget, Republic Services	<p>Incorporated Into The Landfill: The revised draft regulations still include the following language on Page 13, line 30-31 that will limit application of soil amendments, erosion control, revegetation and slope stabilization: (D)The material applied is never commingled with solid waste <del>and incorporated into the landfill for final deposition.</del> Question: This provision, particularly the highlighted language is still undefined. If a landfill operator applies material for revegetation and the area grows cover grass as intended 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 that any organic material used for slope stabilization, landscaping, revegetation and erosion control would need to be 100% free of contamination because at some point this material may be incorporated into the final cover. Or, would we be required to screen out any cover grass that has grown as part of landscaping or on side slopes? In nearly all cases, any organics applied as to side slopes or road base will over time be incorporated into the soil and become a soil amendment. As construction of the landfill advances, this soil with some de Mini mis organic content will be re-used as road base, for slope stability and a variety of other normal soil uses. <b>Recommendation: Delete the new language regarding incorporation into the landfill and clarify that this material cannot be commingled with solid waste unless the material has less than 10% organic content.</b></p>	<p>Evaluation of whether application of soil amendments, erosion control, revegetation and slope stabilization at a landfill meets the standards of this section is intended to happen at the time of use and not at an undetermined future date. The language "commingled with solid waste" was deleted from Section 18983.1(b)(5)(D) during the rulemaking process.</p>
4374	Helget, Republic Services	<p>ARTICLE 3 6. Container Contamination Minimization (Page 22) Contaminated Container Disposal: Section 1898.4.5 (b)(4)(A) requires that a 11designee: obtain consent of a jurisdiction prior to disposing of a contaminated container. This language implies that consent must be granted for each contaminated container. This could be a lengthy process that could delay collection and result in contaminated containers left at the point of generation or at a solid waste facility potentially creating health and safety issues and odors. <b>Recommendation: Clarify that a generator and designee notify the jurisdiction or that there is a process in place for handling contaminated container disposal.</b></p>	<p>CalRecycle has removed Section 18984.5(b)(4)(A). The change is necessary to clarify that a hauler does not have to get approval on a case-by-case basis but rather can obtain prior consent from the jurisdiction for disposing of container with prohibited container contaminants.</p>
4375	Helget, Republic Services	<p>Container Contamination Waste Composition Studies: We appreciate the options offered for an annual route review or a waste composition study. We are concerned that requirements for a waste composition study are prohibitive unless a route is more clearly defined. We are also concerned that the sample sizes are excessive. <b>Recommendation: CalRecycle should work with stakeholders on a reasonable definition of a route and on a more reasonable level of sampling.</b></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 evaluations 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. However, what constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. The</p>

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			<p>jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste.</p> <p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology. Additionally, the waste composition studies are based upon the City of LA's methodology. The timeframe is over the period of a week.</p>
4376	Helget, Republic Services	<p>Container Contamination Minimization Exclusion: On Page 24 the exclusion in 18984.S(e)(1) requires that a jurisdiction must use facilities that recover 75% organics from the green container and have less than 25% organics in the gray container going to disposal to get excluded from the requirements of Section 18984.5 pursuant to 17409.5.1.</p> <p>The regulations do not specify what part of 17409.5.1 applies and subsection (b) and (c) describe organics recovery standards for a HDOWPF. A HDOWPF by definition receives a mixed waste organic collection stream which does not include a green container. This section goes on to describe the measurement process for organics waste recovered by a HDOWPF from the MW organic collection stream. Again, that stream does not include the green bin.</p> <p>In subsection (d) you also require that the operator (reference organic waste recovered from SSO. When the regulations state pursuant to 17409.5.1, that reference is to the entire section which again refers to organics measurement from a HDOWPF a facility that doesn't receive a SSO green bin? Also, in 18984.S(e) when you stipulate "11organic content received at THE FACILITY" because you reference 17409.5.1, that facility would be an HDOWPF accepting mixed waste organic content.</p> <p>So the cross referencing is very confusing.</p> <p><b>Recommendation: We assume that this exclusion is tied to the Article 17 requirements. If so, this Section 18984.5 should be more clearly written to reference specifically what Article 17 requirements will apply.</b></p>	<p>Comment noted. The commenter is not requesting a specific policy change that would have a regulatory effect. The comment requests that the language defining designated source-separated organic waste facility be moved to elsewhere in the regulation. CalRecycle disagrees and believes more clarity is provided by including pertinent standards that apply to a designated source separated organic waste facility in the definition.</p> <p>Regarding the comment on returning good standing. A facility's qualification as a designated source separated organic waste facilities is determined on a rolling annual average threshold. The determination occurs every quarter and is self-executing. A facility either meets the threshold or not. It is unnecessary to establish a specific process for a facility to return to its status.</p> <p>CalRecycle will inform jurisdictions implementing a performance-based source-separated organic waste collection service if the facility they select is no longer a designated source separated organic waste facility. 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>
4377	Helget, Republic Services	ARTICLE 17 7. Performance-Based Source-Separated Organic Waste Collection Service	Comment noted. CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an

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		<p>We are intrigued by this new option and are still evaluating the potential impact to our jurisdictions. We are concerned that a 90% threshold for a three-container service is a very high threshold. With business start-ups and turn over, it will be very difficult to maintain this 90% requirement.</p> <p>We are also concerned that the 25% organic content for the gray container is a very high standard and the measuring and reporting requirements are excessive.</p> <p><b>Recommendation: CalRecycle should continue to work with stakeholders to improve and streamline this service option.</b></p>	<p>appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. The minimum performance standards that apply to material collected in the green containers in a performance-based source separated organic waste collection service, ensure that collected organic waste is recovered to the minimum degree necessary for the state to achieve the organic waste reduction targets established in statute. This section is necessary to ensure that addition to the requirements that organic waste that is collected in green containers is recovered, a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. 25 percent was established as a threshold to mirror the intent and the 75% organic waste diversion threshold established in statute.</p> <p>Absent this section, a jurisdiction would only be implementing a performance-based source separated organic waste collection system and generating 100 tons of organic waste would only need to send the material collected in the green container to a facility that can recover 75 percent of the material in the green container. If the jurisdiction only collects 50 tons of organic waste in the green container and sends it to a facility that recovers 75 percent of that material, up to 50 tons could be sent directly to disposal in the gray container. Removing this section would compromise the state’s ability to achieve the organic waste reduction targets.</p> <p>Further, jurisdictions implementing a performance-based source separated organic waste collection system, are not subject to the strict education and outreach requirements prescribed in Article 4. This exemption is premised on the jurisdiction’s existing education programs being sufficient to meet or exceed the state’s minimum standards. The organic waste threshold measured in the gray container is a key indicator of the efficacy of the. Comment noted. The gray container waste evaluations are not only indicative of the amount of organic waste that continues to be disposed in jurisdictions that are implementing a performance-based source separated organic waste collection service, which is an important metric for ensuring the state achieves the statewide targets. The requirements also reflect that jurisdictions implementing these services are not required to comply with enforcement and education and outreach requirements included in other portions of the chapter. The gray container waste evaluations are a way of demonstrating performance that is equivalent to or greater than the minimum requirements jurisdictions would otherwise be subject to. Further, after material is recovered from a gray container waste stream, it cannot be accurately associated with the jurisdiction of origin, and even if it could, such a measurement would be used to quantify a jurisdiction-specific diversion target. As noted in several comments, jurisdiction-specific diversion requirements are precluded by statute. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3.</p>
4378	Helget, Republic Services	<p>Title 14 and Title 27</p> <p>8. Measuring Organic Waste Recovery - Daily Sampling Requirements</p> <p>We support the deletion of daily sampling in favor of a quarterly sampling protocol. But 10 consecutive sampling days is still excessive considering the manpower, space requirements and risk to sampling personnel and the possibility of increased odors from sample.</p>	<p>A change to the regulatory text is not necessary. The sampling frequency of 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-</p>

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		<p><b>Recommendations: We recommend sampling occur within a one-week period on a quarterly basis and reporting on a quarterly basis rather than monthly.</b> 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 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>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 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>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>
4379	Helget, Republic Services	<p>Title 14 and Title 28 9. Transfer Processing Load Checking We support the deletion of daily load checking. However, we are still concerned that quarterly sampling requirements are still excessive and that 10 days of sampling will not provide additional sampling accuracy beyond the recommended one week of sampling per quarter stated in our earlier comment letter.</p> <p><b>Recommendations: We recommend sampling occur within a one-week period on a quarterly basis and reporting on a quarterly basis rather than monthly.</b> 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 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>A change to the regulatory text is not necessary. The sampling frequency of 10 consecutive days per quarter 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</p>

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			<p>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 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>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>
4380	Helget, Republic Services	<p>10. Gray Container Waste Evaluations (Page 119)</p> <p>We support the deletion of daily load checking. However, we are still concerned that quarterly sampling requirements are still excessive and that 10 days of sampling will not provide additional sampling accuracy beyond the recommended one week of sampling per quarter stated in our earlier comment letter.</p> <p>We are very concerned about the operational, health and safety impacts that such a large amount of sampling will have on landfill operations. As an example, one of our landfills services more than 20 jurisdictions. In many cases we are receiving mixed jurisdiction loads that will be impossible to sample effectively. Most of those jurisdictions are over 1,000 TPY so each jurisdiction will require 5 samples or more than 100 sample events per quarter.</p> <p><b>Recommendation: We propose a random sampling methodology of one sample/day on 5 consecutive days per quarter and with the caveat that that each jurisdiction will be sampled at least once/year. This process could also include the annual waste characterizations studies that we already conduct.</b></p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
4381	Helget, Republic Services	<p>11. 10% Contamination Threshold - Incompatible Materials (Page 99 and 121):</p> <p>The 10% limit on incompatible materials is very confusing. First, the definition of incompatible materials was introduced in the 2d Draft and we are still trying to understand the impact of this definition. Imposing a 10% limit on incompatible material in recovered organic waste appears to be a 90% organics reduction requirement and not the 50% and 75% requirement stipulated by SB 1383. This 10% requirements may very well be a limit that is impossible to achieve in 2 Yi years, even with the best possible education efforts and with the addition of costly processing equipment.</p> <p><b>Recommendation: We recommend that this threshold be replaced with the 50% in 2022 and 75% in 2025 which will be consistent with the thresholds established by SB 1383 or at least a phased-in incompatible material contamination standard to allow facilities to adjust processing standards, spread the cost of additional processing equipment and until sufficient organics markets evolve to offset the additional processing costs.</b></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.</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> <p>The 50% and 75% are statewide targets. In order to achieve these targets, regulatory limitations for processing organic waste must be implemented.</p>
4382	Helget, Republic Services	<p>12. Intermediate Cover Requirements (Page 163):</p> <p>The language on Page 151, that required landfills to place 36" of compacted earthen material " ... on all surfaces of the fill where no additional solid waste will be deposited within 30 months has been deleted. This is a dramatic improvement.</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.</p>

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		<p>However, new language is added on Page 164 that requires an Intermediate Cover study as part of the SIR. This new language will add an additional expensive analysis and reporting requirement for all areas of the landfill using intermediate cover for more than 12 months.</p> <p>As previously stated on the record, there has been no analysis or justification offered by CalRecycle staff that would warrant an expensive, redundant and unnecessary requirement to restrict the use of Intermediate Cover for periods longer than 12 Months. Landfills already comply with the methane early action measure and we are not aware of any cost/benefit analysis that was completed for the new requirements on Page 164. We believe the benefits will be minimal and the requirement is redundant because we are already conducting extensive ambient emissions sampling under 17 CCR Section 95469 and that sampling does not indicate the need to impose an additional analysis or reporting requirement. Further, using GHG emissions as the only standard for this study is very shortsighted.</p> <p>Any requirement to replace an intermediate cover surface with an additional 24" of soil prior to final closure will require importing additional 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>	
4383	Helget, Republic Services	<p>Finally, SB 1383 states the following:  <del>"(a) 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."</del></p> <p>The Intermediate Cover requirements impose a new reporting burden on facilities that will not help achieve "organic waste reduction goals" nor will this requirement aid the department in determining the effectiveness of achieving the 50% and 75% targets of organics disposal reduction set in SB 1383.</p> <p><b>Recommendation: This provision should be deleted and if CalRecycle believes there is reason to believe that facilities are abusing the intermediate cover regulations, then the Department should initiate a comprehensive and scientifically-based analysis of intermediate cover and closure requirements. Any regulatory changes should be proposed in a separate regulatory process through a focused work group setting to insure that all impacts are properly considered.</b></p>	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
4384	Helget, Republic Services	<p>13. Detailed Status Impact Report:  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 SOR is needed to determine potential impacts to the landfill from organics reduction. If necessary, the JTD must be updated. This additional report seems to duplicate the current permitting and JTD process. This SIR will be costly to prepare and we are very unclear as to the need and purpose of this report. The June Regulations impose a new requirement regarding alternative intermediate cover. As discussed in Item 12, this requirement is outside of the scope of SB 1383 and imposes a significant economic burden without any justification or</p>	This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.

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		<p>quantification that the reporting requirement will result in a reduction in landfill disposal of organics.</p> <p><b>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.</b></p>	
6252	Hilton, R., HF&H Consultants, LLC	<p>Section 18981.2 – This Section states “Nothing in this chapter authorizes a jurisdiction to delegate its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity.”</p> <p>It is not clear whether or not issuing notices of violation would be considered an “action to impose civil penalties.” It is common for jurisdictions to delegate the responsibility of issuing notices of violation to their franchised waste hauler or other contracted entity through franchise agreements or other enforceable mechanisms. Considering their ability to reach each generator on established routes, delegating to a franchised waste hauler can be an effective tool for jurisdictions to efficiently issue notices of violation to non-compliant generators. If this practice is considered an action to impose civil penalties, and thus not allowed to be delegated under these regulations, it may invalidate currently operative longterm franchise agreements or other established enforceable mechanisms.</p> <p><b>HF&amp;H requests that CalRecycle clarify if issuing notices of violation is considered an “action to impose civil penalties,” with particular consideration for the currently used practice of delegating this responsibility to private contractors, such as franchised waste haulers.</b></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>
6253	Hilton, R., HF&H Consultants, LLC	<p>Section 18982(14.5) – This Section provides the definition of a “Designated Source Separated Organic Waste Facility.” From this definition, it is not clear whether a waste water treatment plant with codigestion operations would qualify as a Designated Source Separated Organic Waste Facility.</p> <p><b>HF&amp;H requests the addition of an explicit clarification that a waste water treatment plant that processes source separated food waste through co-digestion is part of the definition of “Designated Source Separated Organic Waste Facility.”</b></p>	<p>The definition of “designated source separated organic waste facility” includes a “compost operation” or “composting facility” as defined in Section 18815.2. The definition reference in 18815.2 states:</p> <p>“Composting operation” or “composting facility” has the same meaning as “compostable material handling operation” or “composting facility” as defined in section 17852(a)(12) of this division, and includes in-vessel digestion as regulated in section 17896 of this division. A person operating a “composting operation” or “composting facility” is referred to as a “composter” in these regulations.” (emphasis added)</p> <p>A wastewater treatment plant may operate as an in-vessel digestion facility under the applicable reference sections. If the facility meets the threshold standards it could qualify a designated source separated organic waste facility.</p>
6254	Hilton, R., HF&H Consultants, LLC	<p>Section 18982(25) – This Section provides the definition of a Food Recovery Organization, as follows: “‘Food recovery organization’ means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for consumption through entities, 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>A change to the regulatory text was made in response to this comment. The definition of “food recovery organization” was revised to:</p> <p>“Food recovery organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities 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>

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		<p>(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.”  The addition of “through entities” to this definition creates ambiguity for the use of the term.</p> <ol style="list-style-type: none"> <li>1. One interpretation is that subsections (A) through (C) describe types of food recovery organizations, as defined in the previous draft. If this interpretation is correct, then the addition of “through entities” is not accurate for organizations that distribute food directly to the public.</li> <li>2. A second interpretation is that subsections (A) through (C) describe the “entities” that a food recovery organization might distribute food through, rather than being classified as food recovery organizations themselves. If this is the case, what is the difference between a food recovery organization and a food recovery service? Can an organization be both a food recovery organization and a food recovery service?</li> </ol> <p><b>HF&amp;H requests that CalRecycle remove “through entities” from this definition; or if this is to be left in, amending the language to read “...an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food, either directly or through other entities, to the public for consumption, including, but not limited to...”</b></p>	<p>(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.</p>
6255	Hilton, R., HF&H Consultants, LLC	<p>Section 18982(28) – This Section provides the definition for a gray container, as follows: “‘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 green container may be a different color.”</p> <p><b>HF&amp;H recommends amending the last sentence of this definition to say “Hardware such as hinges and wheels on a gray container...” rather than a green container.</b></p>	<p>Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say ‘gray’ instead of ‘green.’</p>
6256	Hilton, R., HF&H Consultants, LLC	<p>Section 18982(52.5) – This Section provides the definition of a Performance-based source separated collection service, as follows: “‘Performance-based source separated collection service’ means a solid waste collection service that meets the requirements of Section 18998.1(a).”</p> <p><b>HF&amp;H recommends changing “solid waste collection service” to “organic waste collection service” to match the use in the title of Article 3.</b></p>	<p>Comment noted. A change is not necessary as a performance-based source separated collection service also includes the provision of solid waste collection services. The operative language in Section 18998.1 sufficiently clarifies the standards that apply to these services.</p>
6257	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.1(d) – This Section specifies that “...A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that the allowance of the use bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste. The written notification shall have been provided within the last 12 months.”</p> <p>The requirement for a facility to provide a written notification to the jurisdiction within the last 12 months may be too frequent or not effective for jurisdictions that have existing long-term agreements. Furthermore, allowing operators to revoke this right on an annual basis is likely to result in erosion of value negotiated by agencies</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>



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		<p>for their programs, and may result in significant additional costs to modify programs unexpectedly. Provisions regarding the use of plastic bags is something that many jurisdictions already include in the terms of their franchise agreement(s), and a long-term agreement between a jurisdiction and a contractor should be allowed to serve as a mechanism to provide adequate notice. Furthermore, the useful life of equipment to remove contaminant bags substantially exceeds 12 months. Therefore, annual notification and reporting may create an unnecessary administrative burden.</p> <p><b>HF&amp;H requests that the final sentence of this subsection be amended to: “The written notification shall have been provided within the last 12 months, or as specified in an operative contract for the duration of that contract’s term.”</b></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>
6258	Hilton, R., HF&H Consultants, LLC	<p>Additionally, this Section does not specify whether organic waste collected and properly contained in plastic bags may be placed in the gray container for collection and subsequently removed at the transfer or processing site. This can be an important tool for jurisdictions to manage costs for food waste and green waste collection and processing, if separate processing of these materials is desired. In one study performed for a medium-sized Southern California jurisdiction, the inclusion of a fourth cart for source separated food waste, rather than using a bag system, resulted in a full seven percent (7%) added to the customer rate impact, on top of the costs associated with other program requirements.</p> <p>An allowance for this bagged collection system may also alleviate the unique concerns for high elevation communities, while providing an option for increased diversion in these areas. For example, the town of Truckee, which would be exempt under the elevation waiver standards in subsection 18984.11(d)(1), implemented a gray container bag-based food scraps program for residential customers, which mitigated the wildlife risks associated with food scraps collection in these areas, while simultaneously increasing their ability to divert organic waste.</p> <p><b>HF&amp;H requests that CalRecycle allow organic waste properly contained in plastic bags to be placed in gray containers and removed at a transfer or recovery station for further processing. This shall only be permitted, however, if specifically allowed by the jurisdiction and if proof of proper contaminant removal can be provided. At the very least, we recommend that this practice be permitted under the high elevation waiver exemptions in subsection 18984.11(d), to support food scraps diversion programs that mitigate wildlife risks in these communities.</b></p>	<p>Comment noted. A change to the regulatory text is not necessary as plastic bags may be used in any of the containers. There are also specific requirements for the use of plastic bags in green containers. 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.</p> <p>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).</p> <p>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.</p>
6259	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.1(e)(2) – This Section specifies that “If an uncontainerized green waste and yard waste collection service is provided year-round, generators receiving that service must be provided an option for the collection of other organic waste in a manner that complies with this Section.”</p>	<p>CalRecycle has revised Section 18984.1(e)(2) and all other relevant sections to remove the words ‘an option’ and add ‘collection service.’ The change is necessary because the use of ‘must be provided as an option’ may create a loophole that implies that service for material not typically collected loose in the street, such as food scraps, is an option rather than a requirement pursuant to the regulations.</p>

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		<p>The use of “must be provided as an option” may create a loophole that implies that service for material not typically collected loose in the street, such as food scraps, is an option rather than a requirement pursuant to the regulations.</p> <p><b>HF&amp;H recommends amending this language to read:</b>  <b>“If an uncontainerized green waste and yard waste collection service is provided year-round, generators receiving that service must be provided collection service for any other forms of organic waste in a manner that complies with this Section.”</b></p>	
6260	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.5(c) – This Section requires waste composition studies of the blue and green containers; if container contaminants exceed twenty-five percent (25%) the jurisdiction must notify all generators on the route of proper separation procedures, or do a targeted route review to find the contamination source.</p> <p><b>HF&amp;H recommends that gray containers be required to have a maximum amount of organic materials or recyclable materials and be included in the outreach program. While gray containers will be evaluated during facility composition studies, they are not obligated to notify the jurisdiction of the results, nor are jurisdictions required to act upon the presence of organics/recyclables in the gray cart. In theory, placing all material in the gray container would lead to passing the contamination monitoring evaluation.</b></p> <p><b>HF&amp;H also recommends that CalRecycle define which container types are to be included (i.e. permanent carts, bins, and roll-offs) in the waste composition studies.</b></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. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p> <p>CalRecycle revised 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 be required at the Transfer/Processing operations and facilities that receive a gray container collection stream and more than 500 tons of solid waste</p>

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			<p>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>
6261	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.5(c)(1)(C) – This Section states “The waste composition studies shall include samples taken from different areas in the jurisdiction that are representative of the jurisdiction and account for no less than one half of one percent (0.5%) of the weekly tonnage collected in the jurisdiction.”</p> <p>One interpretation of this Section is that it requires sampling of one half of one percent (0.5%) of the weekly tonnage; another interpretation is that the sampling is from customers whose total generation represents one half of one percent (0.5%) of the tonnage, but the sample size itself could be smaller. This may be problematic for generators who primarily only generate one material stream, but in large quantities. For example, a golf course could have 100 tons of green waste per week (assuming for this example that this accounts for one percent [1%] of the jurisdiction’s entire solid waste stream), sampling their singular sixty-four (64) gallon blue container would not be representative of the recyclable waste stream, even though their total solid waste generation is a large part of the jurisdiction’s total waste stream.</p> <p><b>HF&amp;H recommends that CalRecycle modify the sampling requirement to be one half of one percent (0.5%) of the weekly tonnage for that specific material stream; such that, for example, a large organics generator is sampled based on their generation of organic materials rather than recyclable materials.</b></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. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
6262	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.5(c)(1)(D) – This Section defines the sample size for waste composition studies.</p> <p>It is not clear from the methodology of the waste composition studies how a route is being defined. Not all routes are the same and significant differences exist across different sectors. For example, a residential route may make eight hundred (800) to one thousand and five hundred (1500) stops per day, whereas a commercial route may only make 30 to 100 stops per day depending on the density of businesses. In addition, routes operate with different numbers of days per week (some provide daily service, some only operate on Tuesdays, etc.). The references to the number of</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 evaluations 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. However, what constitutes a “hauler route” is dependent upon the designated itinerary or geographical configuration of the jurisdiction’s waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler</p>

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		generators per route doesn't clarify whether it is a daily route or a weekly route. For example, daily routes may make more sense for jurisdictions that are routed geographically and daily sampling may provide more accurate stratification across the demographic diversity of communities.	routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste.
6263	Hilton, R., HF&H Consultants, LLC	Further, the quality of material and levels of contamination often differ significantly between sectors. For example, if a jurisdiction has low contamination for their single-family sector, but high contamination for their multi-family sectors, they could choose to only sample their single-family routes, which would obscure the accuracy of the data.	CalRecycle has determined that the contamination minimization requirements are adequate. 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 evaluations 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. However, what constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste. Comment noted, CalRecycle revised the regulation to remove the overlap in the tiers. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.
6264	Hilton, R., HF&H Consultants, LLC	The tiers created in this Section also have overlap that may create confusion as to which tier should be followed. For example, a route with exactly 4,000 generators is required to take 30 samples under subsection 2 and 35 samples under subsection 3.	Thank you for the comment. CalRecycle revised this section in the draft regulations.
6265	Hilton, R., HF&H Consultants, LLC	<b>HF&amp;H requests that CalRecycle include a requirement for every sector to be sampled to ensure accurate and representative sampling; provide further description of how routes are defined and which sectors this definition is based</b>	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 evaluations on each hauler route. The term "hauler route" is key to the jurisdiction's

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		<p><b>on; and to establish standards based on route days, rather than weeks. Additionally, we request that CalRecycle amend the tiers in subsection (c)(1)(D) to remove overlap between the tiers for number of generators.</b></p>	<p>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. However, what constitutes a “hauler route” is dependent upon the designated itinerary or geographical configuration of the jurisdiction’s waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. The routes can be daily, be based over a week, etc. It is the jurisdiction's discretion. For example, one jurisdiction’s collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. A change to state that every sector must be sampled is not necessary as the regulation already requires that the routes must be representative of the jurisdiction's waste stream and cover the residential and commercial. 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 jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste. CalRecycle revised the regulation to remove the overlap in the tiers. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
6266	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.5(c)(1)(E) – This Section exempts a jurisdiction from route monitoring if their green container has less than twenty-five percent (25%) prohibited contaminants, and their gray container has less than twenty-five percent (25%) organics.</p> <p><b>This Section should be revised to also place requirements on the blue container (Again, a jurisdiction could theoretically place all material in the blue container and pass the facility contamination monitoring on the green and gray containers); conversely, this Section could be amended to specify that this is only applicable for a two-container organic waste collection service.</b></p>	<p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option and these requirements are sufficient to achieve the needed contamination monitoring. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
6267	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.11 Waivers Granted by a Jurisdiction</p> <p>The language used throughout the regulations regarding waivers appears to require jurisdictions to provide waivers. While CalRecycle has clarified that their intent is not to require jurisdictions to provide waivers, we recommend that the regulations include additionally clarifying language in these Sections to explicitly state that jurisdictions may opt to provide waivers, but nothing requires them to do so.</p>	<p>The regulation already states ‘may’ and each subsection also states the same.</p>

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6268	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.11(a)(2) – This Section, as written, permits generators to avoid compliance by claiming a space constraint and also creates an administrative obligation on the jurisdiction to monitor those locations, in perpetuity, to verify that the space constraint claim is valid. In order to reduce the administrative burden on jurisdictions, improve economies of scale in collection systems, and help to achieve CalRecycle’s goals with this regulation, we recommend making this a temporary waiver. While CalRecycle has provided the option for jurisdictions to use stricter waiver requirements, many will choose not to, leaving a large portion of jurisdictions exempt, which will limit the ability to realistically reach the State’s seventy-five percent (75%) diversion goal.</p> <p><b>HF&amp;H requests that the language be revised to allow a one-time waiver for space constraints with a duration of one- to two-years, depending on the nature of the space constraint and the cost to the generator or property owner of resolving the space constraint. Additionally, the generator should be required to develop a solution to overcome the space constraint during the waiver period.</b></p>	<p>Nothing precludes a jurisdiction from requiring a generator to develop a solution to overcome the space constraint during the waiver period. CalRecycle is allowing these waivers to be reissued every five years, instead of one time only, because the issue of space or amount may not change significantly during that timeframe.</p> <p>CalRecycle does not agree that a jurisdiction is “obligated to monitor” space waivers beyond the initial issuance of the waiver. The language in 18984.12(a)(2) does not speak to what a jurisdiction must monitor after issuance of such waivers. In addition, a jurisdiction does not have to provide space constraint waivers to generators; the language is permissive (i.e., “jurisdictions may...”).</p>
6269	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.11(d)(1) – This subsection describes the option for providing high elevation waivers for jurisdictions at or above an elevation of 4,500 feet. Currently this Section only provides exemptions from the requirement to separate and recover food waste and food soiled paper, and does not mention green waste. However, for high elevation areas that have extended seasons of snow cover and where the main vegetation is pine trees, year-round green waste collection is not always necessary or practical. In some such areas, green waste collection services are provided every other week for six months during the non-snow season, generally from May to October. For fire suppression efforts, many jurisdictions have pine needle clean-up programs in the non-snow season where large plastic bags are provided for the clean-up and subsequently collected. Pine needles are generally not accepted at composting facilities and the historic end use (biomass markets) has been harder to access, especially for remote communities. While Section 18984.1 provides the ability for collection of loose material that is non-containerized and the use of plastic bags within green containers, it is not explicitly clear if these bagged collection systems, which are not included in containers but are also not “loose in the street” collection systems, are allowed under the regulations.</p> <p><b>HF&amp;H recommends that CalRecycle include seasonal exemption options for green waste service in the high elevation waivers. Additionally, HF&amp;H requests clarification as to whether bagged collection systems, such as those used for fire suppression clean-ups, are explicitly allowed under these regulations. If not, we recommend including an allowance for “bagged” green waste collection in addition to containerized and on-containerized/loose in the street collection in the high elevation waiver to accommodate and support crucial fire reduction practices.</b></p>	<p>CalRecycle did not include seasonal exemption options for green waste service in the high elevation waivers. Jurisdictions need to identify options, such as biomass, for pine needles. Regarding bags, the regulations allow for bags to be used in green containers with certain requirements, and bags are allowed in the blue and gray containers with no additional requirements. 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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 6) areas with less than 50 people per square mile</p>

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			<p>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 &lt;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>
6270	Hilton, R., HF&H Consultants, LLC	<p>Section 18984.11(d) – This Section describes the ability for a county to also apply to the Department for a waiver for some or all of its generators in census tracts located in unincorporated portions of the county that are located at or above 4,500 feet.  <b>HF&amp;H requests that CalRecycle clarify what requirements counties are exempt</b></p>	<p>The text is clear in 18984.12(d) that that the elevation waiver only provides an exception to residential and commercial generators from separating and recovering food waste and food soiled paper.</p>

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		<p><b>from under this waiver. Is it all organics requirements, or only food waste and food soiled paper as described in subsection (d)(1) above?</b></p>	
6271	Hilton, R., HF&H Consultants, LLC	<p>Section 18988.3(a) Self-Haul Exemptions – This Section states that “Generators of organic waste may, in compliance with Section 18988.1 of this division, self-haul their own organic waste.”</p> <p><b>HF&amp;H requests that CalRecycle please provide clarification as to whether self-haulers of organic waste are required to subscribe to solid waste or recycling services offered by a jurisdiction.</b></p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
6272	Hilton, R., HF&H Consultants, LLC	<p>Section 18985.1(e)(2) – This subsection describes the requirement to make education and outreach information linguistically accessible to non-English speaking residents; including the requirement to provide electronic materials for any language that is spoken by more than 10,000 persons or one half of one percent (0.5%) of the jurisdiction’s residents.</p> <p>HF&amp;H appreciates CalRecycle’s addition of an electronic option and the desire to be inclusive of a jurisdiction’s residents; however, the reduction of the language threshold from five percent (5%) to one half of one percent (0.5%) is a significant change that may be prohibitively expensive for jurisdictions without materially increasing adoption rates. Considering the diversity of California, one half of one percent (0.5%) (1 in every 200) would lead to a plethora of languages and dialects that jurisdictions would need to create materials for. Additionally, the terms “speaks English less than very well” and “non-English speaking” appear to be used interchangeably throughout this article, and it is not explicitly clear how these terms are defined or differentiated.</p> <p><b>HF&amp;H requests that CalRecycle revise the threshold from one half of one percent (0.5%) back to five percent (5%) and revisit the provisions of this Section to ensure consistent use of the defined terms.</b></p>	Comment noted. The regulations are proposed for adoption two years prior to their effective date, providing CalRecycle time to educate jurisdictions and other regulated entities.
6273	Hilton, R., HF&H Consultants, LLC	<p>The latest draft appears to eliminate the obligation for POTWs to divert biosolids and sewage sludge from landfill disposal. This may cause significant volumes of organic materials to continue to be landfilled, potentially resulting in a shortfall in the achievement of the goals of SB 1383. Furthermore, it may increase the perceived cost of adding recovered organics to POTWs if the digestate is currently going for disposal, potentially slowing rather than accelerating infrastructure adoption.</p> <p><b>HF&amp;H requests restoration of the prior draft’s language or additional provisions that create incentives for agencies that divert biosolids from landfill.</b></p>	A change to the regulatory text is not necessary. The use of organics as an alternative daily cover would be considered disposal pursuant to Section 18983.1(a). Facilities, operations, end-uses, and activities that are considered a reduction of landfill disposal are described in Section 18983.1(b).
6274	Hilton, R., HF&H Consultants, LLC	<p>Section 18989.2 – This Section describes the requirement to adopt an ordinance or other enforceable requirement that requires compliance with Sections 492.6(a)(1)(C), (D), and (G) of the Model Water Efficient Landscape Ordinance (MWELO). The Sections of the MWELO currently referenced describe planting specifications, including the selection of plants, the restriction of the use of turf on specified slope grades, and the discouragement of using invasive plant species.</p>	Thank you for the comment. CalRecycle has revised Section 18989.2(a) to correct the citation. The change above addresses commenters questioning that this does not refer to organics. A change is not necessary, the use of other enforceable requirement is consistent with the terminology in 18989.1.



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		<p>It appears that CalRecycle may have instead intended to reference Sections 492.6(a)(3)(C), (D), and (G) of the MWELo, which describe specifications surrounding the use of compost for landscape installations, the requirement for mulch cover, and the preference of recycled or post-consumer organic mulch materials over inorganic materials or virgin forest products. These subsections are far more relevant to the procurement requirements and goals of SB 1383.</p> <p><b>HF&amp;H recommends amending this Section to reference Sections 492.6(a)(3) (C), (D), and (G) of the MWELo rather than Sections 492.6(a)(1)(C), (D), and (G). Additionally, HF&amp;H recommends changing “other enforceable requirement” to “other enforceable mechanism”, in order to remain consistent with the language used throughout the rest of the regulations.</b></p>	
6275	Hilton, R., HF&H Consultants, LLC	<p>HF&amp;H greatly appreciates CalRecycle’s efforts to support the implementation of edible food recovery programs through these regulations. However, without education of employees of commercial edible food generators, the programs will not be effective or properly executed. We recommend that commercial edible food generators be required to provide educational information to their employees on the edible food recovery program, much like commercial businesses that are organic waste generators are required to provide information on organic waste diversion.</p> <p><b>HF&amp;H requests additional language, consistent with earlier Sections, that reads: “Commercial edible food generators shall annually provide information to employees, or other individuals involved in food handling for the generator, about the edible food recovery program requirements, including the requirement to not intentionally spoil food that may be recoverable for human consumption. Commercial edible food generators shall provide information to any new employees before or within 14 days of employment.”</b></p>	<p>The requirement proposed in this comment is overly prescriptive and in order for a commercial edible food generator to comply, they will have to educate one or more of their employees about their food recovery procedures and the commercial edible food generator requirements that they are subject to.</p>
6276	Hilton, R., HF&H Consultants, LLC	<p>Section 18991.3(c) Commercial Edible Food Generators – This Section describes that in no case may a commercial edible food generator recover no edible food absent extraordinary circumstances, including failure of a jurisdiction to secure food recovery capacity and “Acts of God.” There may be other circumstances that might impact the ability to recover edible food aside from the currently listed “Acts of God.” For example, an uncontrollable major power outage leading to a lack of refrigeration may cause unsafe food storage conditions and unintended food spoilage.</p> <p><b>HF&amp;H requests that the phrase “Acts of God” be changed to “uncontrollable circumstances” and include circumstances beyond natural disasters, as appropriate, such as uncontrollable major power outages in the case of food recovery requirements. While this comment is noted in this Section for the purposes of this letter, CalRecycle should consider changing “Acts of God” to a more comprehensive definition of “uncontrollable circumstances” throughout the regulations, such as in Section 18995.4. Enforcement by a Jurisdiction.</b></p>	<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. Therefore, the term “Acts of God” was not revised to “uncontrollable circumstances.”</p>

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6277	Hilton, R., HF&H Consultants, LLC	<p>Section 18993.1(f) Recovered Organic Waste Product Procurement Target – As drafted, this Section only allows compost, renewable gas, and electricity from biomass conversion as acceptable recovered organic waste products that a jurisdiction may use to comply with the procurement targets of this article. However, mulch is not included as an option, despite the feedstocks for mulch being covered materials under the regulation. The Sections of the MWELo added to this draft of the regulations (under the assumption that the assertion made in our comment under Article 8 is correct regarding the Sections of the MWELo intended to be referenced) heavily reference the use of mulch. If certain uses of mulch are encouraged or regulated under the MWELo, this is incongruous with the procurement targets that exclude mulch.</p> <p><b>HF&amp;H recommends adding mulch as an acceptable recovered organic waste product under Section 18993.1(f).</b></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>
6278	Hilton, R., HF&H Consultants, LLC	<p>Section 18993.1(h) Renewable Gas Procured from a POTW – HF&amp;H appreciates the addition of the procurement of renewable gas (or resultant energy) from a POTW. Biosolids are defined by this regulation to be an organic waste, however, they are not received from a permitted solid waste facility; they are received through the sewer collection system. If an agency is making the investment in complying with subsection (2) – 75 percent (75%) diversion of biosolids from landfill – the procured gas resulting from that should be counted toward the procurement requirement, as it is generated from California Organic Materials that were diverted from landfill. Removing subsection (1) provides an incentive to jurisdictions to divert biosolids rather than landfilling them.</p> <p><b>HF&amp;H requests that subsection (1) be eliminated.</b></p>	<p>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. 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>
6279	Hilton, R., HF&H Consultants, LLC	<p>Section 18997.2 Penalty Amounts – Base Table 1 imposes higher penalties for record keeping requirements for food recovery organizations and food recovery services (at Level 1, Level 2, and Level 3 for each offense) than it does for commercial edible food generators (at Level 1, Level 2, and Level 2 for each offense). Food recovery organizations and services will be carrying an increased burden for the successful implementation of these regulations, and many are under-funded, under-staffed, or volunteer run. It does not seem equitable to financially penalize these organizations and services at a higher amount than edible food generators, many of which are large for-profit companies</p> <p><b>HF&amp;H requests that Base Table 1 be amended such that the penalty levels for record keeping requirements for food recovery organizations and food recovery services match the penalty levels for commercial edible food generators at: Level 1</b></p>	<p>CalRecycle has revised Section 18997.2 in response to this comment. The change will align the penalty amounts for failing to keep records for edible food generators and food recovery organizations in accordance with the limitations of the Government Code on penalties for local infractions.</p>

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		<b>for the first offense, Level 2 for the second offense, and Level 3 for a third and subsequent offense.</b>	
6280	Hilton, R., HF&H Consultants, LLC	Section 18997.2 Table 3 <b>HF&amp;H suggests adding MWELO to the title of Table 3, as follows: “Table 3 is to be used for Jurisdictions Compliance with CALGreen and MWELO (Article 8) and Procurement (Article 12)”</b>	CalRecycle has revised Section 18997.3 Table 3 in response to this comment. The request text "MWELO" will be added to the title of the table.
6281	Hilton, R., HF&H Consultants, LLC	Section 18998 – As drafted, the regulations do not provide for a window of time in which a jurisdiction, if found non-compliant with the standards required to use the performance-based method under Article 17, would have to transition back to the standard compliance method in Article 3 or modify processes to reach compliance with the standard of Article 17. <b>HF&amp;H recommends including an allowable buffer window of up to one (1) year for jurisdictions making a good faith effort to reach compliance to successfully transition to the standard compliance model under Article 3, if necessary. HF&amp;H recommends this specific buffer window duration due to the unique challenges of local jurisdictions to amend budgets and increase staffing mid-year, coupled with the protracted time-frames often associated with their contract renegotiations.</b>	Comment noted. The enforcement provisions in Article 14 provide that a jurisdiction may have 90 days to correct a violation of any requirement, and that timeframe may be extended up to a total of 180 days to correct a violation. Further, the recovery efficiency for designated source separated organic waste collection facilities is determined on a rolling annual average. The definition of designated source separated organic waste recycling facility establishes that a facility does not qualify as a one facility if it fails to meet the annual recovery rates specified for two consecutive quarterly reporting periods or three quarterly reporting periods within three years. 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 a designated source separated organic waste recycling facility. 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.
6282	Hilton, R., HF&H Consultants, LLC	Section 18998.1(a)(1) – This subsection describes the requirement to “Provide a three-container organic waste collection service consistent with Section 18984.1 of this chapter to at least 90 percent of the organic waste generators subject to the jurisdiction’s authority.” However, it is unclear how this ninety percent (90%) subscription will be measured. This is especially problematic in shared-service and multitenant environments where the number of accounts is well known, but the number of generators varies from month to month based on occupancy. Further, it is not clear if the percentage is measured per sector, or if it measured cumulatively across sectors. There is often a significant difference between single-family, multi-family, and commercial participation rates; and a jurisdiction with high single-family participation rates but low participation in other sectors may appear to meet the ninety percent (90%) threshold, while actually missing a significant portion of organic waste generated. Without specifications for how this ninety percent (90%) is measured, a jurisdiction could even omit the commercial and multi-family sectors from their participation numbers if single-family participation rates are high enough. Including a requirement for each sector to meet ninety percent (90%) participation would eliminate this ambiguity and the potential number manipulation that could obscure actual participation rates.	Comment noted. The compliance standards in the regulation are established at the minimum level necessary to meet the state’s organic waste reduction targets.
6283	Hilton, R., HF&H Consultants, LLC	Additionally, the provisions do not explicitly specify whether this performance-based approach has to be used on a jurisdiction-level or if it may be used on a sector basis (e.g. only single-family generators) or a routing basis (e.g. only material collected in carts). Agencies have different mix of sectors which may use different processes, collectors, or facilities for each; and the metrics used by the haulers also differ by sector. It is fairly common for jurisdictions to offer exclusive residential	Comment noted. The compliance standards in the regulation are established at the minimum level necessary to meet the state’s organic waste reduction targets.

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		<p>services and non-exclusive commercial collection, so some jurisdictions may wish to use the performance-based source-separated organic collection service at a sub-jurisdictional level to minimize the systemic changes required to comply.</p> <p><b>HF&amp;H requests that CalRecycle require each sector to meet this ninety percent (90%) requirement respectively; include a description of how subscription levels will be measured to meet this ninety percent (90%) requirement; and clarify whether the performance-based approach could be used at a subjurisdictional level.</b></p>	
6284	Hilton, R., HF&H Consultants, LLC	<p>Section 18998.1(a)(3) – The performance-based compliance approach in Article 17 envisions permitting twenty-five percent (25%) remnant organics in disposal. In the 2014 waste characterization data from CalRecycle, the sum of the organics and paper categories was 54.4 percent (54.4%) of the disposal. If twenty-five percent (25%) remnant organics is permitted, that would result in only a forty-six percent (46%) diversion of the 2014 baseline, rather than the seventy-five percent (75%) required by law. Additionally, this approach appears to permit ten percent (10%) (for green containers) and twenty-five percent (25%) (for blue containers) out-throws from the organics recovery systems (blue and green carts). Those are incomparable bases so it is difficult to quantify how much additional organic material is disposed of that way, but it may be another eight to twelve (8-12) percentage points.</p> <p><b>HF&amp;H recommends reviewing the mathematics of these limits to align the 2014 baseline waste characterization, remnant/residual organics requirements, and the fifty percent (50%) and seventy-five percent (75%) recovery goals included in the statute.</b></p>	<p>Comment noted. CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. The minimum performance standards that apply to material collected in the green containers in a performance-based source separated organic waste collection service, ensure that collected organic waste is recovered to the minimum degree necessary for the state to achieve the organic waste reduction targets established in statute. This section is necessary to ensure that addition to the requirements that organic waste that is collected in green containers is recovered, a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. 25 percent was established as a threshold to mirror the intent and the 75% organic waste diversion threshold established in statute.</p> <p>Absent this section, a jurisdiction would only be implementing a performance-based source separated organic waste collection system and generating 100 tons of organic waste would only need to send the material collected in the green container to a facility that can recover 75 percent of the material in the green container. If the jurisdiction only collects 50 tons of organic waste in the green container and sends it to a facility that recovers 75 percent of that material, up to 50 tons could be sent directly to disposal in the gray container. Removing this section would compromise the state’s ability to achieve the organic waste reduction targets.</p> <p>Further, jurisdictions implementing a performance-based source separated organic waste collection system, are not subject to the strict education and outreach requirements prescribed in Article 4. This exemption is premised on the jurisdiction’s existing education programs being sufficient to meet or exceed the state’s minimum standards. The organic waste threshold measured in the gray container is a key indicator of the efficacy of the program.</p>
6285	Hilton, R., HF&H Consultants, LLC	<p>Section 18998.1(a)(4) – This subsection describes the requirement to implement a system of automatic enrollment for new businesses and residents. The implementation of an auto-enrollment process may be feasible, but presents potential conflicts with Proposition 218 and/or Proposition 26 that agencies may need flexibility to mitigate.</p> <p><b>HF&amp;H requests that the language of this subsection be amended to: “Implement a system for automatically enrolling all new commercial businesses and residents within the jurisdiction in the three container organic waste collection service within 30 days of occupancy of a business or residence, in a manner within the</b></p>	<p>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>

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		<p><b>jurisdiction’s reasonable control and subject to applicable state law regarding rate regulation...”</b></p>	<p>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>The comment describes potential conflicts between the automatic enrollment process for solid waste collection service under Section 18998.1(a)(1) and Propositions 26 and 218, but doesn’t describe what those might be. The comment is noted. Notably, the phrase “automatically enrolling” was removed from the regulatory language during the rulemaking process in favor of alternate language that states that a jurisdiction shall not require business or residents to request solid waste collection service prior to providing it. In addition, the Performance-Based Source-Separated Organic Waste Collection Service provisions in Article 17 are optional requirements and a jurisdiction does not have to choose this regulatory pathway.</p>
6286	Hilton, R., HF&H Consultants, LLC	<p>Section 17409.5.7.2(c) Gray Container Waste Evaluations - Measuring Remnant Organic Material – This subsection provides that “The operator shall conduct a measurement in the presence of the EA when requested,” but does not include local jurisdiction representatives. Considering the significant impact that these evaluations may have on the jurisdiction’s compliance with SB 1383 and the obligation of the local agency (not the hauler or facility) to manage contamination, local jurisdiction representatives should be involved in approving the study methodology and observing studies of their material, if they so desire.</p> <p>Additionally, the method for evaluations and measuring remnant organic material for gray containers and the method described for blue and green containers is different in approach and level of detail.</p> <p><b>HF&amp;H requests a modification to the text to align the sorting methodology for all three streams and the inclusion of a requirement that “The operator shall notify the jurisdiction that a measurement is planned at least 15 business days prior to the measurement and shall invite the jurisdiction to send a representative to observe the study. Such measurement shall be scheduled on a normal government working day and between the hours of 8 a.m. and 5 p.m. In the event that the jurisdiction determines that the study was improperly conducted or believes it</b></p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The change to the gray container waste evaluation will now require 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 be required to conduct one waste evaluation per quarter. This change is necessary to replace the provision with a less burdensome alternative. The requirement that it be done per jurisdiction has been removed. However, the requirement that measurements be conducted in the presence of the LEA remained and is necessary to ensure that facilities are conducting measurements accurately. It provides the LEA an opportunity to oversee the methodology and identify where problems may occur or if it is not performed correctly. If there is a large discrepancy between the gray container waste evaluation performed by the operators and the jurisdictions container contamination minimization results reported, the jurisdictions will be notified.</p>

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		<b>was not representative, that jurisdiction may appeal to CalRecycle for review of the matter.”</b>	
6304	Hockett, K., City of Corona	To date, the proposed SB 1383 regulations have included a provision that would prohibit local jurisdictions from enacting ordinances that would impede the lawful processing and recovery of organic waste through land application of biosolids. This provision is essential to adequately address organic waste diversion in California and develop an effective program of implementation for SB 1383. To the extent that recent comments and stakeholder feedback call into question that provision or seek to undermine its efficacy, we believe that this issue needs to be addressed. Local jurisdictions cannot be allowed to adopt more restrictive ordinances relative to the land application of biosolids under the guise of addressing health and safety concerns. Any interpretation to the contrary represents a significant departure from what we understood to be CalRecycle's intent. It is critical that the entire state be open for land application when done as regulated under the federal and state regulations.	Comment noted. CalRecycle updated the proposed regulatory text in response to concerns raised by other stakeholders about conflicts with local policies or ordinances. Section 18990.1 (b)(1) now reads: "(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: (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter." This section of the regulatory text was updated to reflect stakeholder feedback to allow for reasonable local regulation of organic waste recovery activities such as land application of biosolids. For example, local jurisdictions may have legitimate public health and safety reasons to place time and manner restrictions on the land application of biosolids and this language allows for that. The intent of CalRecycle was to place a nexus between any local restriction and public health, safety, and environmental concerns such that the local requirement is closely tailored to deal with a particular public health, safety or environmental issue and doesn't constitute an overbroad, de facto prohibition.
6305	Hockett, K., City of Corona	Corona is part of the California Association of Sanitation Agencies (CASA). CASA has worked proactively with CalRecycle for more than two years in recognition that the wastewater sector can accept significant quantities of food waste for co-digestion and green waste for composting with our biosolids. However, in order to ensure the viability of such a partnership, there must be assurance of markets for our biosolids, biogas, and compost. Restrictive local ordinances are in direct conflict with this objective.	Comment noted. Comment is not commenting on the regulatory language.
6306	Hockett, K., City of Corona	Biosolids are a renewable, valuable resource produced as an inherent component of the essential public service of wastewater treatment. Biosolids will be produced in greater quantities as our population increases and as SB 1383 is implemented and food waste is co-digested with municipal sewage sludge. In keeping with the objectives of SB 1383 and the Healthy Soils Initiative, the land application of biosolids has been shown to sequester carbon, increase water holding capacity and thus reduce irrigation needs, improve soil tilth, increase crop yields, and avoid the use of fossil fuel intense inorganic fertilizer. Therefore, unnecessary restrictions on biosolids used as soil amendments is counter to the goals of SB 1383. In short, State and federal regulations protect public health, safety, and the environment and should not be precluded by local ordinances.	Comment noted. It is not CalRecycle's intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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: (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.
6307	Hockett, K., City of Corona	Wastewater treatment plants can utilize existing infrastructure in the form of anaerobic digesters to codigest food waste and other organic waste, thereby diverting it from landfills. Significant increases in biogas production, and in turn renewable energy production, result from co-digestion at much lower costs than building new infrastructure. Wastewater treatment plants can also accept significant quantities of green waste for co-composting with the biosolids. For these efforts to be viable, we need assurance of markets for the products of digestion, including both biosolids and biogas. While CalRecycle took positive steps toward	Comment noted. Comment is not commenting on the regulatory language. The requested clarifications were provided a response as separate comments.

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		<p>assuring those markets exist, we request several clarifications below to expand those options.</p>	
6308	Hockett, K., City of Corona	<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.</p> <p>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. <b>Corona strongly urges CalRecycle to replace the words " .... anaerobic digestion or composting .... " With" ..... one of the processes, ...."</b></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<sub>2</sub>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.</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> <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<sub>2</sub>e 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 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>
6309	Hockett, K., City of Corona	<p>In order to clarify that alternative treatment processes and end uses of biosolids are allowed, and do not constitute landfill disposal, <b>we recommend the following language be inserted in the deleted section below.</b></p> <p>Article 6 Section 18987.2. Biosolids and Sewage Sludge Handling at a POTW</p> <p><b>(a) Biosolids generated at a POTW shall meet one or more of the following:</b></p> <p><b>(1) Treated and managed in accordance with the Land Application, Incineration, or Surface Disposal requirements specified in 40 CFR part 503,</b></p> <p><b>(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, including public distribution, and for landscaping, public parks and other facilities, golf courses, and reclamation projects, or</b></p> <p><b>(3) Be treated and managed in other approved manners, approved by the regional, state, or federal agencies having appropriate jurisdiction.</b></p>	<p>A change to the regulatory text is not necessary. The use of organics as an alternative daily cover would be considered disposal pursuant to Section 18983.1(a). Facilities, operations, end-uses, and activities that are considered a reduction of landfill disposal are described in Section 18983.1(b).</p>
6310	Hockett, K., City of Corona	<p>Article 9 Section 18990.1 (c)(3) seems inconsistent with the language added to s. 18990.1 (a &amp; b) which restricts local ordinances such that they may not impede organics recycling. Sub (c)(3) seems to supersede that restriction. <b>Deletion of this</b></p>	<p>Section 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 section 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</p>

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		<p><b>language is requested to ensure an open market across California for organics recycling</b></p>	<p>or prevent meeting the organic waste recovery targets established in SB 1383. Meanwhile, section 18990.1 (c) clarifies that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with section 40053 of the Public Resources Code. A revision to the regulatory text is not necessary.</p>
6311	Hockett, K., City of Corona	<p>Article 12 Section 18993.1 (f) defines eligible recovered organic waste products which satisfy the procurement requirements of s. 18993.1 (e). 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. This includes use of biosolids for home use, on public parks and other property, golf courses, community gardens, etc.</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>
6312	Hockett, K., City of Corona	<p>Article 12 Section 18993.1 (h)(1) states that in order for renewable gas from a POTW to qualify for procurement requirements it must be produced in part from diverted organic waste from a "permitted solid waste facility". There are cases where organic waste may be diverted from a landfill but not be processed at a permitted facility (ie, out of date items from grocery stores, food scraps from institutions managed in a Grind2Energy type unit, industrial food processing, etc.). <b>We recommend amending the language to add at the end of sub (1) " ... or the organic waste would otherwise have been disposed of in a solid waste landfill."</b></p>	<p>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. 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>
6313	Hockett, K., City of Corona	<p>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. Please also provide clarity as to where this table can be found.</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>



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			<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. 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<sub>2</sub>e 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 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>
6314	Hockett, K., City of Corona	<p>Article 1 Section 18982(a)(2). "Gray Container" - <b>the word 'green' should be changed to 'gray' to read: Hardware such as hinges and wheels on a gray container may be a different color.</b></p>	<p>Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say 'gray' instead of 'green.'</p>
6315	Hockett, K., City of Corona	<p>Article 12 Section 18993.1 (f)(2). "transportation" - <b>the word 'transportation' should be corrected to 'transportation' to read: Renewable gas used for fuel for transportation, electricity, heating, applications, or pipeline injection,</b></p>	<p>Thank you for your comment, the error was corrected.</p>
1071	Holloway, P., Placer County Local Enforcement Agency	<p>1) Proposed 14 California Code of Regulations (CCR) section 18984.12(d): While the Placer LEA is generally supportive of this section, it has concerns regarding the specification of an exact elevation (4,500 feet) as it may be too restrictive for all jurisdictions. For example, the Foresthill Transfer Station, at approximately 2,800 feet, recently has had bears destroying fencing and breaking into the facility to rummage through the solid waste at the site. This solid waste was taken by the bears from the facility and spread outside of the fenced perimeter of the facility. While the operator and owner were quick to address and remedy the situation, it is indicative of a problem that may face other facilities and jurisdictions at a substantially lower elevation than the 4,500 feet in the proposed regulations. The violations were documented in LEA inspection reports of the Foresthill Transfer Station.</p> <p><b>The LEA suggests the following changes to the proposed regulations:</b></p> <p><b>(1) An incorporated city may apply to the Department for a waiver for some or all of its generators in census tracts located in unincorporated portions of the county that are located at or above 4,500 feet or generators in census tracts which have a well-documented history with animal intrusion into solid waste containers and/or local solid waste operations or facilities.</b></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,</p>

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		<p><b>(2) A county may apply to the Department for a waiver for some or all of its generators in census tracts located in unincorporated portions of the county that are located at or above 4,500 feet or generators in census tracts which have a well-documented history with animal intrusion into solid waste containers and/or local solid waste operations or facilities.</b></p>	<p>100, 250 people per square mile); 4) jurisdictions with populations &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 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 &lt;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 intrusion 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>

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4287	Hornback, S. California Assisted Living Association	<p>Section 18984.9            Can you clarify wheter residential care Facilities for the Elderly (Assisted Living) communities would fall under 18984.9 (b) and be required to provide containers and recycle in business areas of the building but not in private resident apartments?            During the meeting (stakeholder meeting June 18, 2018) we received verbal confirmation but would appreciate further clarification in the form of a Frequently Asked Questions document or other supplemental information that confirms that the businesses licensed as Residential Care Facilities for the Elderly are required to implement the organic waste recycling in the common areas, but not in private resident apartments.</p>	<p>Containers need to be available in public areas and common areas along-side disposal containers, but just like cities are not required to provide containers for inside residential units, and apartment owners are not required to provide containers inside private units, assisted living facilities are not required to place containers inside private living quarters. However, while it is not required, it may be practical in certain situations to provide recycling containers in assisted living private living quarters, e.g., makes it easier for the resident/staff to manage the materials, etc.</p>
4330	Huls and Students, 905 Organics Recycling Course	<p>General Statement: If we are going to the trouble of creating new organics recycling requirements for business and consumers, take the opportunity to include training requirements for local jurisdictions to educate and train businesses and consumers to do COMPLETE WORK and BEST PRACTICES. Don't make it an interim step. We have 10 years to make RADICAL change in all sectors to begin to drawdown carbon from the air. We don't have time to go back and retool, or retrain society if we miss the target due to shortcomings in our programs and technologies. Many of the requirements proposed don't quite go far enough to correct individual behavior, so our comments implore you to go further and faster.</p>	<p>It is unclear what is meant by the regulations have failed to make "sufficient progress." To the extent that the author's is expressing his opinion that sufficient progress would reflect accepting the specific regulatory changes proposals made by the author, regulatory proposals and reasons for accepting them or not are addressed individually throughout this document. that have already been adopted, was subject to a public comment period.</p>
4331	Huls and Students, 905 Organics Recycling Course	<p>PAGE 35            " jurisdiction provides mass distribution through mailings, or bill inserts, it shall provide the date, a copy of the information and the type and number of accounts receiving the information."  <b>RECOMMENDATION: Consider including a requirement that the jurisdiction provide a graph or other graphical representation that shows the consumer how their performance is making a positive impact due to their engagement in the program.</b></p>	<p>A change to the regulatory text is not necessary. A jurisdiction has the flexibility to create their own education and outreach which may or may not include tracking their progress.</p>
4332	Huls and Students, 905 Organics Recycling Course	<p>PAGE 55            "(4) If the jurisdiction allows placement of compostable plastics in containers pursuant to Section 18984.1 or 18984.2, the jurisdiction shall identify each facility that has notified the jurisdiction that it accepts and recovers that material. ...allows organic waste to be collected in plastic bags... each facility has notified the jurisdiction that it can accept and remove plastic bags when it recovers source separated organic waste."  <b>RECOMMENDATION: Rather than allow or encourage use of plastic bags, whether compostable or not, regulation should require reusable kitchen counter containers for collection such as Sure Close or other brands. However, if compostable bags are used they should comply with Clear standard</b> (see the following reference: <a href="https://www.portlandoregon.gov/inr_view.cfm?id=89">https://www.portlandoregon.gov/inr_view.cfm?id=89</a>)</p>	<p>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.            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.</p>

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			Regarding reusable containers, the comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period. Also, there is nothing that precludes a jurisdiction from allowing the use of reusable containers.
4333	Huls and Students, 905 Organics Recycling Course	<p>“Section 18984.1. Three-container Organic Waste Collection Services”</p> <p><b>RECOMMENDATION: Reconsider this requirement. This is too complicated for consumers – either take all of compostable material or none, this is what is not working about our current plastic container recycling. Consumers are not informed and are sending dirty plastic / wrong plastics and we are not recycling. So be clearer!</b></p>	CalRecycle amended the regulations to specify that jurisdictions may only allow compostable plastics and plastic bags in their green container collection service if the facility receiving their organic waste for recovery has provided written notification indicating that they can accept and recover, or accept and remove the material respectively.
4334	Huls and Students, 905 Organics Recycling Course	<p>“(A) Compostable plastics may be placed in the green container if the material meets the ASTM D6400 standard for compostability and the contents of the green containers are transported to Compostable Material Handling Operations or Facilities or In-vessel Digestion Operations or Facilities that have provided written notification to the jurisdiction that the facility can process and recover that material. The written notification shall have been provided within the last 12 months.”</p> <p><b>RECOMMENDATION: This is unsorted material including wood– does this really work?? Colored paper? Paper products- what type?? Not clear. In a subsequent passage, the correct type of description is provided as noted herein:</b></p> <p><b>“(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 designated for collection in the blue container.”</b></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 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>
4335	Huls and Students, 905 Organics Recycling Course	<p>“Allow the addition of plastic bags, compostable.”</p> <p><b>RECOMMENDATION: THIS IS A TERRIBLE IDEA: NO PLASTIC BAGS.</b> It’s too much work at compost facility, inevitably plastic will get into organic compost!!!! Train the consumer to dump out their bags and they will learn that you can’t compost plastic.</p>	<p>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.</p> <p>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 plastic bags, prohibiting non-compostable plastic bags, requiring clear bags, requiring</p>

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			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.
4336	Huls and Students, 905 Organics Recycling Course	<p>“(d) A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that the allowance of the use bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste. The written notification shall have been provided within the last 12 months.”</p> <p><b>RECOMMENDATION: if we want to encourage composting at family homes – stop the green waste cans all together – give them \$100. Per year, which is the cost of the cans to compost incentivize to do the right thing</b></p>	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.
4337	Huls and Students, 905 Organics Recycling Course	<p>“(1) If an uncontainerized green waste and yard waste collection service is provided intermittently or on a seasonal basis, a green container is still provided for collection of organic waste as required in (a)(1) whenever the uncontainerized service is not provided.”</p> <p>“Section 18984.3. Unsegregated Single-Container Collection Services (a) A jurisdiction may comply with the requirements of this article by providing a single gray container to each generator that allows for intentional comingling 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. (b) If the facility that the container is transported to has an annual average mixed waste organic content recovery rate that is lower than required in Section 18982(a)(33) of this part.”</p> <p><b>RECOMMENDATION: 2 container system is not effective – why are we even offering! Can we get the single containers stopped quicker? Require 3 containers everywhere.</b></p>	A change in language is not needed as this was the least costly and burdensome approach and still achieves the necessary organic disposal reduction. See statement of purpose and necessity in Section 18984.2.
4338	Huls and Students, 905 Organics Recycling Course	<p>“(5) If the jurisdiction allows organic waste to be collected in plastic bags pursuant to Section 18984.1 or 18984.2, a copy of written notification received from each facility serving the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste.”</p> <p><b>RECOMMENDATION: Don't allow plastic bags!</b></p>	<p>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.</p> <p>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 plastic bags, 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).</p>

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			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.
4339	Huls and Students, 905 Organics Recycling Course	<p>Section 18984.11. Waivers and Exemptions Granted by a Jurisdiction</p> <p>(a) A jurisdiction may grant one or more of the following types of waivers to a generator of organic waste:</p> <p>(1) De Minimis Waivers:</p> <p>(A) A jurisdiction may waive a commercial business's 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 demonstrating that:</p> <ol style="list-style-type: none"> <li>1. The commercial business's total solid waste collection service is two cubic yards or more per week and organic waste comprises less than 20 gallons per week of the businesses' total waste.</li> <li>2. The commercial business's total solid waste collection service is less than two cubic yards per week and organic waste comprises less than 10 gallons per week of the businesses' total waste.</li> </ol> <p><b>RECOMMENDATION: why give small business an exception – they will just become large at some point. Use the idea that if you size down the trash can – people will use less trash.</b></p>	A change in language is not needed. If businesses and there waste generation grow they will lose eligibility for de minimis waivers. The waiver provisions require that de minimis waivers are reviewed every five years.
4340	Huls and Students, 905 Organics Recycling Course	<p>“(2) Physical Space Waivers</p> <p>(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>(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) Elevation Waivers:</p> <p>(1) An incorporated city may apply to the Department for a waiver for the jurisdiction and some or all of its generators from the requirement to separate and recover food waste and food soiled paper if the jurisdiction is located at or above an elevation of 4,500 feet.</p>	<p>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.</p> <p>Also, the comment about requiring rural areas to compost is outside scope of regulations.</p>

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		<b>RECOMMENDATION: Regs shouldn't grant exemption for anyone! It doesn't train the population --- if they grant exemptions for food waste collections in rural areas—they need to require homes to compost on site – and provide funds to offset cost.</b>	
1072	James, Michael, City of Shafter, Public Works	Timing and Use of "Uncontainerized Green Waste" Programs Section 18984.1(e) states that "Nothing in this section is intended to prohibit a jurisdiction from using an uncontainerized green waste and yard waste collection service to its generators" but essentially conditions later that a green waste container must be provided or a service option. For several years, a large majority of Shafter's residents have relied on a seasonal brush and yard waste collection program as a cost-effective alternative to a weekly green waste program. The City is prepared to address the likely requirement to implement a weekly program but shouldn't be expected to achieve 100-percent implementation within CalRecycle's suggested compliance schedule.	The comment is noted; however, the commenter did not request a language change.
1073	James, Michael, City of Shafter, Public Works	Property and Business Owner Responsibilities Section 18984.10 does not adequately address how jurisdictions will be able to obtain data from business and property owners that would be required to provide either their employees or multi-family unit tenants with information on organic waste recovery requirements. <b>There must be something added that requires these owners to report diversion and customer data, so it can be readily shared with CalRecycle.</b>	There is no requirement that jurisdictions report to CalRecycle regarding a business or property owner's education activities, nor is there a requirement for the business/property owner to report to the jurisdiction about education activities. This approach was selected as the least costly and burdensome one that still achieves the organics disposal reductions. If the jurisdiction finds out that a business/property owner is not providing the required education, then the jurisdiction has the ability to begin an enforcement action.
1074	James, Michael, City of Shafter, Public Works	Section 18984.5 lays out specific policies concerning contamination. Specifically, 200-pound samples are to be collected and inspected from service routes. If 25-percent of the sample is deemed contaminated, a jurisdiction would be required to notify all generators within that route of their requirement to properly separate materials into the appropriate containers. Notification simply won't address the issue of contamination. Based on the experience of local haulers in this area, pre-collection inspections of individual containers have proven to be the most effective policy to monitor and avoid contamination before it enters a collection truck. Through detecting contamination at the source, the jurisdiction can refuse to service the container and tag it with instructions for the customer on how to fix contamination and avoid future contamination. Rather than prescribing a one-size-fits-all solution to address contamination, the regulations should allow a jurisdiction to develop a policy, provided the details and results of such a policy are reported routinely to CalRecycle.	Comment noted, A change to the regulatory text is not necessary. There is no change necessary because Section 18984.5(c) already provides an alternative approach and jurisdictions can still do route review (pre-collection inspections) per Section 18984.5(b).
1075	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

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			<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>
1076	James, Michael, City of Shafter, Public Works	<p>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.  <b>Suggested alternatives to the schedule being proposed are as follows:</b>  <b>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.</b>  <b>Offer time extensions or even waivers for local agencies and haulers that serve economically disadvantaged communities.</b>  <b>Start the compliance clock after the effective date, currently projected for January 1, 2022, rather than expect to have targets reached beforehand in 2020.</b></p>	<p>Comment noted. The 2020 and 2025 targets are set in statute and cannot be altered through rulemaking. CalRecycle carefully considered which specific waivers and exemptions to collection requirements that would balance relieving the burden on certain generators without preventing CalRecycle from achieving the statutory mandates for reductions in landfill disposal. The waivers and exemptions in the regulations impact approximately 5% of the organic waste stream and would still allow achievement of the statutorily mandated reductions in landfill disposal. Exempting economically disadvantaged communities would result in significantly more reductions in organic waste collected and adversely impact the achievements of the statewide reductions in landfill disposal goals.</p>
1077	James, Michael, City of Shafter, Public Works	<p>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.</p>	<p>Comment noted. CalRecycle prepared an Environmental Impact Report to analyze potential environmental impacts.</p>
1078	James, Michael, City of Shafter, Public Works	<p>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. Rather, 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.</p>	<p>Comment noted. The Legislature mandated ambitious organic waste diversion targets in SB 1383 on a short timeline. CalRecycle acknowledges that implementation comes with costs. SB 1383 contains statutory provisions allowing local jurisdictions to offset such costs through fees. CalRecycle determined the proposed regulatory model was necessary in order to achieve the statutory organic waste diversion targets on the timeline mandated by the Legislature.</p>



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6003	Kenny, R., Western U.S. Clean Energy; Levin, J., Bioenergy Association of California	<p><b>We ask that CalRecycle join us in:</b></p> <p><b>Supporting the expanded uses of renewable gas;</b></p> <p><b>Supporting the inclusion of biomass conversion;</b></p> <p><b>Expanding allowable end uses for biomass conversion to be consistent with the proposed end uses for biogas from anaerobic digestion;</b></p> <p><b>Supporting the correction of the definition of “renewable gas” to include the gas from biomass conversion; and</b></p> <p><b>Not requiring that eligible biomass be received from a permitted solid waste facility.</b></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 expanding “renewable gas” to include gas from biomass conversion, 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> <p>Regarding requiring feedstock for biomass conversion facilities to be received from a solid waste facility, CalRecycle disagrees with removing this requirement. The current proposed regulatory language is consistent with SB 1383 Section 1(b) that mandates the adoption of policies for beneficial uses of biomethane from “solid waste facilities”.</p>
1069	Kernkamp, Hans, Riverside County Department of Waste Resources	<p>Section 20901.1 Gray container Waste Evaluation-Frequency</p> <p>As proposed, the operator of a disposal facility shall conduct waste evaluations at various frequencies for each 12 month period from July 1 to the following June 30 consistent with the requirements of section 20901. The number of samples and frequency would require an increase in personnel and equipment which will not only significantly increase operational costs but more importantly place these additional employees in an often dangerous and hectic environment, creating an additional safety concern. Facilities try to avoid placing "boots on the ground" as much as possible to reduce the likelihood of serious accidents and injuries. Cordoning off a separate area is not always feasible as most facilities do not have the additional open space available, particularly as the landfill geometry is constantly changing.</p> <p><b>RCWMD requests that Section 20901 be stricken in its entirety. If it is the desire of CalRecycle to measure compliance at the jurisdictional level, that requirement should not be placed on the receiving facility.</b></p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
4254	Kester, G. CASA, Coss, Orange County Sanitation District	<p>To date, the proposed regulations have included a provision that would prohibit local jurisdictions from enacting ordinances that would impede the lawful processing and recovery of organic waste through land application of biosolids. For the reasons outlined below, this provision is absolutely essential to adequately addressing organic waste diversion in California and developing an effective program of implementation for SB 1383. To the extent that recent comments and stakeholder feedback call into question that provision or seek to undermine its efficacy, we believe that this issue needs to be addressed. Local jurisdictions cannot be allowed to adopt more restrictive ordinances relative to the land application of biosolids under the guise of addressing health and safety concerns. Any interpretation to the contrary represents a significant departure from what we understood to be CalRecycle’s intent.</p>	<p>It is not CalRecycle’s intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p> <p>This section of the regulatory text was updated to reflect stakeholder feedback to allow for reasonable local regulation of organic waste recovery activities such as land application of biosolids. For example, local jurisdictions may have legitimate public health and safety reasons to place time and manner restrictions on the land application of biosolids and this language allows for that. The intent of CalRecycle was to place a nexus between any local restriction and public health, safety, and environmental concerns such that the local requirement is closely tailored to</p>

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		<p>It is critical that the entire state be open for land application when done as regulated under the federal and state regulations. We therefore urge CalRecycle to maintain the language as currently set forth in Article 9 with the revision and deletion of language recommended in comments 5 &amp; 6 below.</p> <p>Existing state and federal regulations adequately and thoroughly address health and safety concerns. The USEPA has committed significant resources to execute risk assessments, technical support documents, and comprehensive regulations which are reviewed every two years under the Clean Water Act to ensure the land application of biosolids protects public health and the environment. The State Water Quality Control Board has also expended tremendous resources in the development of a Programmatic Environmental Impact Report and a statewide General Order to ensure the safety of the land application of biosolids.</p>	<p>deal with a particular public health, safety or environmental issue and doesn't constitute an overbroad, de facto prohibition.</p>
4255	Kester, G. CASA, Coss, Orange County Sanitation District	<p>CASA has worked proactively with CalRecycle for more than two years in recognition that the wastewater sector can accept significant quantities of food waste for co-digestion and green waste for composting with our biosolids. However, in order to ensure the viability of such a partnership, there must be assurance of markets for our biosolids, biogas, and compost. Restrictive local ordinances are in direct conflict with this objective.</p> <p>Biosolids are a renewable, valuable resource produced as an inherent component of the essential public service of wastewater treatment. Biosolids will be produced in greater quantities as our population increases and as SB 1383 is implemented and food waste is co-digested with Municipal sewage sludge. In keeping with the objectives of SB 1383 and the Healthy Soils Initiative, the land application of biosolids has been shown to sequester carbon, increase water holding capacity and thus reduce irrigation needs, improve soil tilth, increase crop yields, and avoid the use of fossil fuel intense inorganic fertilizer. Therefore, unnecessary restrictions on biosolids used as soil amendments is counter to the goals of SB 1383.</p>	<p>It is not CalRecycle's intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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: (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p>
4256	Kester, G. CASA, Coss, Orange County Sanitation District	<p>Currently a patchwork of county ordinances restricts the land application of biosolids from onerous permitting and site requirements, treatment specifications (compost or Class A only), to outright bans across much of the state. This is an unsustainable landscape which forces municipalities to travel many miles to suitable land application sites. Indeed, roughly 15% of the biosolids produced in the state is land applied in Arizona, which deprives California farmers of this resource and disregards the objectives of the Healthy Soils Initiative.</p> <p>There is now only one operating sewage sludge incinerator in the state, with no more expected to be built. Under SB 1383, landfills will no longer be a sustainable disposition, though roughly 20% of the state produced biosolids are currently managed at them. This further points to the importance of land application as the most valuable beneficial use for biosolids and the single viable option under SB 1383.</p> <p>As an example of local ordinances being overly restrictive and in conflict with federal and state regulations, some include language prohibiting land application</p>	<p>The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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: (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p>

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		<p>from October or November 15 – April 15 each year in anticipation of rainfall events (e.g. <b>Yolo County Section 06-12-03 General Requirements and Restrictions on Biosolids Application (b) Biosolids shall not be applied to any land between November 15 and April 15.</b> Such restrictions should be based on conditions and not hard dates. During the recent extended drought, land application could have been executed all year with the exception of a few days. The Statewide General Order already would have precluded application during those rare rain events based on language in Prohibition 13: “The application of biosolids to water-saturated or frozen ground or during periods of precipitation that induces runoff from the permitted site is prohibited.”. Other ordinances stipulate that only Class A biosolids may be applied (e.g. <b>Riverside County 8.129.040 - Land application of class B sewage sludge is prohibited., Effective November 25, 2001, it is unlawful for any person to land apply Class B sewage sludge to any land within the unincorporated areas of Riverside County (Ord. 812 (part), 2001).</b> As a consequence, increasing quantities of biosolids are managed in Arizona. The Statewide General Order sets standards for the land application of both Class A and Class B biosolids. Finding 11 promotes it with the following: “This General Order establishes a regulatory system to manage biosolids in a manner that is reasonably protective of public health and the environment to the extent of present scientific knowledge. The beneficial use of biosolids through land application under this General Order is environmentally sound and preferable to non-beneficial disposal.”</p> <p>In short, State and federal regulations protect public health, safety, and the environment and should not be precluded by local ordinances.</p>	
4257	Kester, G. CASA, Coss, Orange County Sanitation District	<p>Article 2 Section 18983.1(a)(3) – States that “<del>Any other disposition not listed in subsection (b) of this section</del>” constitutes disposal at a landfill. Would this include biosolids which are incinerated, thermally oxidized, or deposited in surface disposal sites at a wastewater treatment plant. We fail to understand what disposition not at a landfill, should still be considered as “landfill disposal”, and why? <b>We believe this language should be deleted for the sake of accuracy and clarity.</b></p>	<p>Yes, biosolids which are incinerated, thermally oxidized, or deposited in a surface disposal site at a wastewater treatment plant will initially be considered as disposal per section 18983.1. 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<sub>2e</sub> 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, Determination of Technologies That Constitute a Reduction in Landfill Disposal, 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>
4258	Kester, G. CASA, Coss, 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</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<sub>2e</sub> per short ton organic waste processed. Therefore, section 18983.1(b)(6)(B) can</p>

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		<p>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.</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 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><b>CASA strongly urges CalRecycle to replace the words “..... anaerobic digestion or composting.....” With “..... one of the processes, ....”</b> In support of this argument, please refer to the BEAM model at this link: <a href="https://casaweb.org/wp-content/uploads/2015/12/1-BrownetaLEST-GHGCalculator10.pdf">https://casaweb.org/wp-content/uploads/2015/12/1-BrownetaLEST-GHGCalculator10.pdf</a> 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>This section also raises questions on whether public distribution of exceptional quality biosolids for home use, public parks, golf courses, landscaping, or other beneficial uses constitute a reduction in landfilling. We assume that is the intent but clarity is requested. Additionally, language should be added that reclamation activities such as for fire ravaged land, superfund or other mine sites, brownfields, or overgrazed rangeland also qualifies as a reduction. Please refer to our comment on Article 6 for recommended language to address this.</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. Please refer to Section 18983.2 for more information.</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<sub>2e</sub> 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 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> <p>A change to the regulatory text is not necessary. CalRecycle revised this section based on comments received during the 45-day comment period. The change removed Section 18987.2; however, Section 18987.1 was not changed and continues to specify where biosolids can be sent. In addition, activities that are considered recovery and do not constitute as landfill disposal are already described in Section 18983.1(b).</p>
4259	Kester, G. CASA, Coss, Orange County Sanitation District	<p>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 use 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. <b>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.</b> 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 MTCO<sub>2e</sub> 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. Please refer to Section 18983.2 for more information.</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<sub>2e</sub> per short ton organic waste. CalRecycle evaluated the BEAM model referred to by one commenter and determined the model</p>

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			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 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.
4260	Kester, G. CASA, Coss, Orange County Sanitation District	<b>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.</b>	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.
4261	Kester, G. CASA, Coss, 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)). <b>We request that CalRecycle clarify the scope of this definition.</b>	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. 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 <sub>2e</sub> 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 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.
4262	Kester, G. CASA, Coss, Orange County Sanitation District	In order to clarify that alternative treatment processes and end uses of biosolids are allowed, and do not constitute landfill disposal, <b>we recommend the following language be inserted</b> in the deleted section below. Article 6 Section 18987.2. Biosolids and Sewage Sludge Handling at a POTW <b>(a) Biosolids generated at a POTW shall meet one or more of the following:</b> <b>(1) Treated and managed in accordance with the Land Application, Incineration, or Surface Disposal requirements specified in 40 CFR part 503,</b> <b>(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, including public distribution, and for landscaping, public parks and other facilities, golf courses, and reclamation projects, or</b>	A change to the regulatory text is not necessary. The use of organics as an alternative daily cover would be considered disposal pursuant to Section 18983.1(a). Facilities, operations, end-uses, and activities that are considered a reduction of landfill disposal are described in Section 18983.1(b).

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		<b>(3) Be treated and managed in other approved manners, approved by the regional, state, or federal agencies having appropriate jurisdiction.</b>	
4263	Kester, G. CASA, Coss, Orange County Sanitation District	Article 9 Section 18990.1(b)(1) should make clear that recycling activities in accordance with applicable federal and state law cannot be restricted or prohibited in any way. <b>The following verbiage should be added to this section:</b> (b)(1) Prohibit <b>or restrict</b> the lawful processing and recovery of organic waste through a method 6 identified in Article 2 of this chapter	The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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: (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.
4264	Kester, G. CASA, Coss, Orange County Sanitation 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. <b>Deletion of this language is requested to ensure an openmarket across California for organics recycling.</b> Furthermore, as stated above the language in s 18990.1 (a&b) must remain, (with the edit recommended in comment 5).	Section 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 section 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. Meanwhile, section 18990.1 (c) clarifies that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with section 40053 of the Public Resources Code. A revision to the regulatory text is not necessary.
4265	Kester, G. CASA, Coss, Orange County Sanitation District	Article 12 Section 18993.1(f) defines eligible recovered organic waste products which satisfy the procurement requirements of s. 18993.1(e). 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. This includes use of biosolids for home use, on public parks and other property, golf courses, community gardens, etc.	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.
4266	Kester, G. CASA, Coss, Orange County Sanitation District	Article 12 Section 18993.1(h)(1) states that in order for renewable gas from a POTW to qualify for procurement requirements must be produced in part from diverted organic waste from a “permitted solid waste facility”. There are cases where organic waste may be diverted from a landfill but not be processed at a permitted facility (ie, out of date items from grocery stores, foodscraps from institutions managed in a Grind2Energy type unit, industrial food processing, etc.). <b>We recommend amending the language to add at the end of sub (1) “... or the organic waste would otherwise have been disposed of in a solid waste landfill.”.</b>	The purpose of the proposed regulatory language is to be consistent with SB 1383 statute that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. This requirement allows the department to verify that these facilities are reducing the disposal of organic waste.
4267	Kester, G. CASA, Coss, 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. Please also provide clarity as to where this table can be found.	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

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			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.
4268	Kester, G. CASA	CASA has been pleased that CalRecycle recognizes the wastewater sector as part of the solution for organics diversion, and we greatly value the collaborative and productive relationship we have developed with CalRecycle. We hope the issues articulated in this letter and other comments can be addressed and we stand ready to assist in any way possible. We have appreciated how responsive Hank Brady and his entire team have been through this process and look forward to finalizing this effort.	Comment noted. Commenter is not requesting a change.
6084	Knight, S., Alameda County Community Food Bank	We would especially like to thank CalRecycle for creating a distinction between Food Recovery Organizations and Food Recovery Services in reporting requirements. Alameda County Community Food Bank has calculated that this change will save our volunteer-run agency network 52,000 administrative hours per year.	A change to the regulatory text was not necessary because this comment is in support of the distinction between food recovery organization and food recovery service recordkeeping requirements in the regulations.
4503	Koutroulis, OC Waste & Recycling	<p>Article 4. Cal Recycle - Controls  Section 20901.1 Gray Container Waste Evaluations- Frequency  Page 153 through 155, line 7-153 thru 18-155 - The operator of a disposal facility shall conduct waste evaluations at the following frequency for each 12 month period from July 1 to the following June 30 consistent with the requirements of section 20901.</p> <p>OCWR Comment: <b>Recommend removing all reference to disposal facilities evaluations of incoming gray container waste streams as outlined in Article 4.</b> We have many concerns about the new language provided in Section 20901.1. It is our understanding that this section has been included so jurisdictions may receive exemptions for Section 18984.5 - Container Contamination Minimization. We understand the desire to provide jurisdictions this exemption however, as the regulations are currently written the onus and cost is entirely placed on the disposal facility. As the owner and operator of three disposal facilities that receive material from over 30 jurisdictions, as proposed, the new draft regulations would likely require conducting over 1,150 waste evaluations per year, just across our three sites. As you might imagine, we are well versed in disposing of material brought to our facilities, however, we possess no personnel, expertise, equipment, facilities or safe locations to perform the proposed evaluations. Our consultant has estimated the cost associated to staff time for the performance of this large number of evaluations conducted on a fulltime basis to be \$5,460,000 per year for each of our sites.</p>	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation

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		<p>Not only do we believe the sheer number of waste evaluations is an impossible task, we also believe the methodology described in the proposed regulations provide no possible path to compliance based on the following information:</p> <p>Many disposal facilities including ours do not track jurisdiction of origin as material comes into our disposal facilities. This information is provided by private haulers after the fact via monthly allocations. This is consistent with AB 901 requirements. We do not track which waste stream material is from as it comes to a disposal facility. Waste streams are not defined nor contemplated within AB 901.</p> <p>Gray container waste may be mixed with other waste streams before it arrives to a disposal facility.</p> <p>Gray container waste may be mixed with multiple jurisdictions before it arrives to a disposal facility.</p> <p>Jurisdictions which take material to multiple facilities will have many more waste evaluations conducted for the same tonnage than if brought to a single facility.</p> <p>Many jurisdictions within Orange County take material to all three landfill locations. The requirement to take samples throughout the day is impossible because we as a disposal facility do not know when loads will arrive or where material will come to prior to its arrival.</p> <p>There is no language regarding what a disposal facility should do if a jurisdiction no longer brings material to a disposal facility.</p> <p>There are safety concerns regarding having sufficient space at the landfill to conduct these studies, especially with new requirements requiring organic processing at landfills.</p> <p>We believe that if a jurisdiction wishes to become exempt from Section 18984.5 the jurisdiction should be required to show CalRecycle that they meet the maximum quantity of organic material in the gray bins. It does not seem reasonable to conduct 1,000's of these studies when there may not be any jurisdictions that are attempting to become exempt.</p> <p>We would also like to remind CalRecycle that <b>SB 1383 sets statewide goals for organic waste disposal reduction and thus there should not be any requirements for tracking of organic disposal on a jurisdictional level.</b></p>	
4504	Koutroulis, OC Waste & Recycling	<p>Section 18984.5 Container Contamination Minimization Page 23 of 165, Line 24 through 28 - (1) The jurisdiction shall conduct waste composition studies every six months for prohibited container contaminants contained in the contents of containers in sampled collection routes in the following manner: (A) Waste composition studies shall be performed at least twice per year and occur in two distinct seasons of the year.</p> <p>OCWR Comment: <b>Recommend changing waste composition studies annually for prohibited container contaminants contained in the contents of containers in sampled collection routes in the following manner: (A) Waste composition studies shall be performed at least once per year and occur in varying seasons of the year.</b></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 evaluations 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. However, what constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other</p>



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		<p>Page 23 of 165, Line 35 through 44, (D) The waste composition studies shall include at least the following minimum number of samples from all the routes included in the studies:</p> <ol style="list-style-type: none"> <li>1. For routes with less than 1,500 generators the study shall include a minimum of 25 samples,</li> <li>2. For routes with 1,500-4,000 generators the study shall include a minimum of 30 samples,</li> <li>3. For routes with 4,000-7,000 generators the study shall include a minimum of 35 samples,</li> <li>4. For routes with more than 7,000 generators the study shall include a minimum of 40 samples.</li> </ol> <p>OCWR Comment: <b>The term "route" needs to be defined</b>, is it based on a geographical area, mileage, tonnage, hauler convenience, etc.?</p>	<p>factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste. CalRecycle does not concur with changing to annually for waste evaluations. This timeframe is not adequate to identify contamination and provide education to affected generators to result in a change in behavior.</p>
4505	Koutroulis, OC Waste & Recycling	<p>Section 18997.3 Department Penalty Amounts  Page 91, line 13 through 29, (e) For violations of the Recovered Organic Waste Product Procurement requirements in Section 18993.1, where a jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target, the Department shall determine penalties based on the following: (1) The Department shall calculate the jurisdictions daily procurement target equivalent by dividing the procurement target by 365 days. (2) The Department shall determine the number of days a jurisdiction complied by dividing the total amount of recovered organic waste products procured by the daily procurement target equivalent. (3) The Department shall determine the number of days a jurisdiction was out of compliance with the procurement target by subtracting the number of days calculated in from 365 days. (4) The penalty amount shall be calculated by determining an appropriate penalty level based on the factors in subdivision (d), above, and multiplying that number by the number of days determined according to subsection (e)(3), above. The penalty amount shall not exceed \$10,000 per day.</p> <p>OCWR Comment: <b>Local procurement mandates are not authorized by SB 1383.</b> 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> <p><b>Recommend Article 16 be deleted from this regulatory phase and taken up as a separate, future item when we all have more information on the types and availability of end products made from diverted organics. We also recommend creating an exemption for jurisdictions who, due to unforeseen circumstances, are unable to meet the procurement requirements in Article 16.</b> There may be instances where it's impossible to procure organic waste products due to lack of availability and infrastructure.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>

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4316	LaMariana, Rethink Waste	<p>1. Article 3, Section 18984.5. Container Contamination Minimization The revised regulations include a reduction of a jurisdiction’s container contamination route review from quarterly to annually. We strongly support this modification; many local jurisdiction’s lack capacity to implement the prescribed enforcement requirements. This change greatly reduces the burden on local resources while still ensuring proper enforcement to maintain the integrity of the regulation.</p>	<p>Thank you for the comment. The comment is in support of the current language. 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. CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs.</p>
4317	LaMariana, Rethink Waste	<p>2. Article 12, Section 18993.1: Recovered Organic Waste Procurement Target The revised regulations include expanding the list of end uses that qualify for using recovered organic waste, including renewable gas used for fuel for transportation, electricity, heating applications, pipeline injection, and electricity from biomass conversion. We strongly applaud this change; 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.</p>	<p>Thank you for your comment.</p>
4318	LaMariana, Rethink Waste	<p>3. Article 3, Section 18984.1: Three-container Organic Waste Collection Services 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. <b>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-bin programs.</b> 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>
4319	LaMariana, Rethink Waste	<p>4. Article 14, Section 18995.4: Enforcement by a Jurisdiction 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. Therefore, they will have to increase their inspection team sizes significantly to meet potential enforcement and inspection requirements pursuant to this Section. <b>We respectfully request extending these time frames by an additional 30-days and allow for a window for compliance.</b> 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>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15 day comment period.</p>

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3030	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	The recovered organic waste per capita procurement target for 2022 as outlined in section 18993.1 is infeasible because the sheer volume of organic waste products that would need to be purchased is too large for California’s current infrastructure to produce. In addition, prior submitted comments that the procurement obligation was simply too large were met by an increase by 14% in the current revised text from previous versions. We again understand ambitious goals, but they need to be grounded in market and capacity realities so as to be remotely attainable. We have grave concerns over establishing goals that will clearly need to be revisited with cleanup regulation based on foreseeable constraints.	<p>The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from CalRecycle’s Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.</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 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. Regarding renewable gas alternatives “not currently available” to the County, it is important to note that the options available today do not necessarily reflect the options that will be available in the future once the more than 25 million tons of organic waste are diverted and processed. Therefore, revising or deleting these regulations to satisfy current availability of recovered organic waste products and current infrastructure would not be forward-looking nor would it match the intent of Article 12.</p>
3031	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	<b>We request that Section 20901 be considered for revision or deleted entirely.</b> If the State requires the consolidated data showing the overall percentage of organics in disposed waste, that information could be captured with quarterly or annual measurements of organics presence in the landfill’s aggregated waste stream. Physically separating incoming wastes by jurisdiction of origin, performing and reporting on separate evaluations of organic material percentages for each of those jurisdictions is costly, time-consuming and will not yield meaningful data.	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
3032	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	Section 18984.5.(c1)(C) on page 23 of 165—At 0.5% of weekly tonnage collected, the sampling requirements are unnecessarily large and for some streams, this sampling may not be warranted. We question the value of this exercise, given the cost and physical space needed to perform the sampling. If these requirements must be maintained, please provide mechanisms for reducing the frequency (or eliminating the requirement) when sample results meet a minimum threshold of quality.	<p>CalRecycle revised the regulations and removed the 0.5% of weekly tonnage collected. 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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			<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. In addition, nothing would restrict a jurisdiction from developing its own requirements for how the facility would conduct waste characterization. Thank you for the comment. In response to this comment and other stakeholders, CalRecycle modified the sample size and required that each hauler route must be sampled annually.</p>
3033	Landry, S., Recycling and Waste Reduction Commission of Santa Clara County	Section 18984.5.(c)(1)(D) on page 23 of 165— <b>Please clarify the intent of this language and define what is meant by a "route."</b> The compliance language associated with this term seems inconsistent with how a "route" is generally defined in the solid waste industry.	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 evaluations on each hauler route. The term "hauler route" is key to the jurisdiction's compliance with these requirements because it describes where the jurisdiction should direct its contamination minimization efforts in order to increase detection of container contamination by generators. What constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. For example, a jurisdiction's collection system may consist of one continuous itinerary or series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics or the system could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so 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.
6318	Lane, C., Orange County Health Care Agency	Thank you for the opportunity to review and provide comment on this very important regulation. With respect to the section below, in particular the yellow highlighted portion, <b>it would be helpful to environmental health departments should they enter into an agreement or MOU to provide the required services, to include language in the regulation to the effect of: creating a program, to include enforcement and fees for cost recovery.</b> See letter for language	Comment noted. The term is used as an example of what a public entity is. The examples of public entities is meant to provide guidance but the list is not exclusive.
6319	Lane, C., Orange County Health Care Agency	There needs to be guidance or language to allow for the environmental health department to develop the program in a manner that meets the requirement of the regulation. Additionally, adding the service to the food safety inspection time on behalf of a jurisdiction means that environmental health departments will have a decrease in the amount of food safety inspections conducted. Therefore, <b>it would also be helpful to include language specific to environmental health department that allows for the department to add staff (full time employees) of the</b>	A change to the regulatory text was not necessary because 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. Nothing in the regulations prohibits this.

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		<p><b>appropriate title/discipline to conduct the service and complete the requirement on behalf of the jurisdiction.</b> See letter for language</p>	
6085	Learakos, M., Waste Not OC	<p>In our estimation, the current tier definitions do not accurately address market trends in California's retail foodservice industry. The fastest growing segment of the retail foodservice industry is defined as 'Fast Casual'. The average size of a high volume Fast Casual operation is between 3,00 - 4,200 sq ft. with a greater emphasis on take-out/delivery/catering resulting in a reduced seating capacity (averaging between 75 - 120 people). For all intents and purposes, these operations generate as much, if not more, food waste than most establishments captured under current tier two definitions. As currently defined, Tier II will exclude as much as 70% of all retail food waste generators from mandatory participation in the donation of excess edible food in the next four years which could hinder the state from reaching SB1383 food recovery targets.</p>	<p>SB 1383's statutory goal is to recover 20% of currently disposed edible food for human consumption by 2025. Not to recover all currently disposed edible food by 2025. 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. 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.</p>
6086	Learakos, M., Waste Not OC	<p>We feel there are two possible solutions to address the disadvantages created by the current tier definitions. <b>1. Add a 'Tier III' that includes the 'Fast Casual' segment (Reduced establishment size and seating capacity) thereby requiring participation from more retail food establishments.</b></p>	<p>SB 1383's statutory goal is to recover 20% of currently disposed edible food for human consumption by 2025. Not to recover all currently disposed edible food by 2025. 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. 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.</p>
6087	Learakos, M., Waste Not OC	<p>We feel there are two possible solutions to address the disadvantages created by the current tier definitions. <b>2. Include in SB1383, the ability to reevaluate the current tier structure in future years should the state fail to reach food recovery targets.</b></p>	<p>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. Food facilities and food service establishments that are not a tier one or tier two commercial edible food generator are exempt from SB 1383's regulations because they typically have smaller amounts of edible food that would otherwise be disposed available for food recovery. However, CalRecycle does have the authority to reevaluate SB 1383's edible food recovery regulations should the state fail to achieve the goal of recovering 20% of currently disposed edible food for human consumption by 2025.</p>
6088	Learakos, M., Waste Not OC	<p>We would like to briefly comment on the most recent public workshop on June 18th, during which a municipal representative questioned the need to develop capacity for food recovery in more affluent areas where excess edible food exceeds the number of non-profit food agencies. We have found that most cities have a balance between the amount of excess edible food available and the number of Food Insecure individuals who can receive that food. In other cities or communities, we have found there is an imbalance in which there is a greater number of food waste generators than there are non-profit agencies feeding hungry people. In these cases, the ability to build capacity is still critical. Municipalities develop or partner with entities that divert food waste outside of the community. There is still a cost benefit to 'diverting' excess edible food to a community that has a greater need than simply allowing edible food to become food waste. For these municipalities, we would strongly advise that there likely is a need for the excess</p>	<p>Thank you for the comment. The comment is not asking for a language change.</p>

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		edible food but in the event there is not, collaboration with other communities would be mutually beneficial.	
6004	Levin, J., Bioenergy Association of California	<p>BAC Strongly supports the proposed changes to Section 18993.1(f)(2) that expand the permissible uses of renewable gas from anaerobic digestion of organic waste. As we noted in our comments of March 4, the state’s Short-Lived Climate Pollutant Reduction Strategy encourages a variety of end uses of biogas from organic waste, including electricity generation, pipeline injection, heating, and transportation fuel. Since each of these end uses reduces SLCP emissions significantly in comparison to fossil fuel gas, the organics regulations should include all energy end uses of the biogas generated from organic waste.</p> <p>Allowing additional end uses of biogas from organic waste will also help local governments and waste companies to meet the requirements of SB 1383 more costeffectively and with the greatest co-benefits, by putting biogas to its highest and best use depending on the location of the biogas production facility, the need for local fuels and energy sources, air quality requirements, and access to pipelines, transmission lines and vehicle fleets.</p>	Thank you for your comment.
6005	Levin, J., Bioenergy Association of California	<p><b>BAC strongly supports the inclusion in Section 18993.1(f)(3) of biomass conversion, which is critical to meet the 75 percent diversion requirement of H&amp;S Code section 39730.6(a)(2).</b> According to UC Davis, lignocellulosic waste comprises more than 80 percent of the organic landfill waste in California. Including biomass conversion, in addition to anaerobic digestion and compost, is therefore essential to meet California’s waste diversion requirements.</p> <p>Biomass conversion can also provide many co-benefits including the production of biochar, which can provide long-term carbon sequestration, an essential tool to achieve carbon neutrality by mid-century.</p>	Thank you for your comment.
6006	Levin, J., Bioenergy Association of California	<p>BAC urges CalRecycle to broaden the allowable uses of biomass to include not just electricity, but heating, pipeline biogas, and transportation fuel. Just as CalRecycle expanded the allowable uses of bioenergy from anaerobic digestion, it should do so for biomass conversion. There is no reason to limit biomass conversion to electricity generation, even if that is currently the most common use in California. To adopt metrics for biomass conversion, CalRecycle can look to the Gas Technology Institute’s (GTI) study, CalFire and the California Public Utilities Commission for the amount of heat, pipeline biogas, or transportation fuel that can be produced from wood and other cellulosic landfill waste. For example, GTI found that one bone dry ton of wood waste can generate 9,354.84 cubic feet of biomethane.</p> <p>BAC urges CalRecycle to broaden Section 18993.1(f)(2) to include biomass conversion as follows:</p> <p>(2) Renewable gas <b>from anaerobic digestion or biomass conversion</b> used for fuel for transportation, electricity, heating applications, or pipeline injection</p> <p>(3) Electricity generated <b>directly</b> from biomass conversion Alternatively, CalRecycle could revise Section 18993.1(f)(3) to parallel Section (f)(2) as follows:</p>	CalRecycle disagrees with expanding the end uses of biomass conversion beyond electricity. These technologies are not yet in practice on a commercial scale in California and lack the necessary conversion factors to include in Article 12. CalRecycle appreciates the commenter’s inclusion of the Gas Institute of Technology’s conversion factor, but it is not robust enough for inclusion in Article 12 at this time as these end uses have not yet been demonstrated on a commercial scale in California. 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.

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		<p>(2) Renewable gas used for fuel for transportation, electricity, heating applications, or pipeline injection  (3) Electricity <b>or renewable gas</b> from biomass conversion <b>used for transportation fuel, electricity, heating applications, or pipeline injection</b>  See letter for full comment and referenced studies.</p>	
6007	Levin, J., Bioenergy Association of California	<p>BAC urges CalRecycle to correct the definition of “renewable gas” in Article 1, Section 62, which is unnecessarily narrow and contradicts the definition used in the state’s renewable electricity programs (the “RPS”) and the definition proposed by the CPUC for pipeline injection purposes. Under the RPS, gas from the gasification or pyrolysis of organic waste is considered renewable if it uses eligible feedstock under Public Resources Code section 40106. CalRecycle recognizes this implicitly by including electricity generation from biomass conversion of eligible feedstock in Section 18993.1(f)(3). There is simply no reason, therefore, to exclude gas from the definition of “renewable gas” that is produced using a renewable feedstock authorized by PRC section 40106.</p> <p>BAC urges CalRecycle to correct the definition of “renewable gas” in Article 1, section 62 as follows:  “Renewable Gas” means gas derived from organic waste that has been diverted from a landfill and <b>is either (a)</b> processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, <b>or (b) a biomass conversion facility consistent with Public Resources Code section 40106.”</b></p>	<p>CalRecycle disagrees with broadening the “renewable gas” definition. The proposed SB 1383 regulatory definition of “renewable gas” necessarily limits the feedstock to landfill-diverted organic waste processed at an in-vessel digestion facility. This definition is consistent with statutory language per SB 1383 Section 1(b) that mandates the adoption of policies for beneficial uses of biomethane from “solid waste facilities”. The definition is specific to the purpose of the statute and these regulations and does not impact or alter other definitions of renewable gas that are specific to the purpose of other statutes and regulations. 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 amending the definition of “renewable gas” to match the Renewable Portfolio Standard’s “biomethane” definition, CalRecycle disagrees. The RPS is a separate program with different statutory requirements than SB 1383.</p>
6008	Levin, J., Bioenergy Association of California	<p>BAC agrees with the intent of Section 18993.1(i) to ensure that biomass conversion only counts as landfill diversion if the biomass would otherwise have gone to a landfill. BAC urges CalRecycle, however, not to require that the biomass be received directly from a permitted solid waste facility. This would force the waste generators or haulers to transport biomass feedstock to a permitted solid waste facility and then to a biomass conversion facility, which may not be co-located with a permitted solid waste facility, which could add significant additional expense and transportation impacts to biomass conversion.</p> <p>BAC proposes the following modification to Section 18993.1(i) to ensure that biomass is only counted if it would otherwise have been landfilled, but not to require it be received directly from a permitted solid waste facility. Section (i) should also be modified to include additional bioenergy end uses of biomass conversion as described above, using the term “renewable gas” rather than limiting biomass conversion to electricity generation only. BAC proposed to modify Section 18993.1(i) as follows:  Electricity <b>or renewable gas</b> procured from a biomass conversion facility may only count toward a jurisdiction’s organic waste product procurement target if the biomass conversion facility receives feedstock from a permitted solid waste facility <b>or the biomass would otherwise have been disposed of in a solid waste landfill.</b></p>	<p>CalRecycle disagrees with the request to delete the requirement that the biomass facility must receive feedstock directly from a solid waste facility specified in Section 18993.1(f)(4)(B). The purpose of the proposed regulatory language is to be consistent with SB 1383 statute requiring organic waste reduction from landfills. This requirement allows CalRecycle to verify that biomass conversion facilities are reducing the disposal of organic waste as opposed to processing material that was never destined for the landfill.</p> <p>Verification is essential to the integrity of the requirement. Absent verification the products that are not derived from organic waste recovery could be used to count toward the procurement targets, neutering the effectiveness of this provision. The proposed alternative is vague and does not contemplate any mechanism that would allow for verification. The alternative does not provide any clarity on which entity would be responsible for determining whether or not biomass recovered at the biomass conversion facility was diverted from a landfill, or what objective standards would be used to make such a determination.</p>
4001	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	CRRC appreciates this clarification related to local government enforcement powers. KL	Comment noted. Commenter expressing appreciation for change.

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4002	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	We have consistently requested that definitions be uniformly aligned with other statutes in the Public Resources Code, and we appreciate those changes in this regulatory package, particularly related to biomass, container consistency, various greenhouse gas definitions, hazardous wood waste, the jurisdiction inclusions, and paper products. KL	TD: I do not think that this response adequately addresses the fact that we did not consider excess fuel consumption. I don't know if it was considered
4003	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	We recognize that Cal Recycle did not make changes to some definitions we have requested throughout this process, and we encourage Cal Recycle to continue to consider those recommendations. One example is the definition of compostable material.	Comment noted, this comment is not directed at changes made to the second draft of regulatory text.
4004	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	We note there was no change to the definition of organic waste or other clarifying expressions for specific green waste, including cannabis and hemp. We believe since this has new regulations and disposal requirements, it would be prudent to specifically reference them by definition as green waste.	Comment noted. It is not necessary to define terms, or amend the definition of terms in the regulations to include terms that are not specifically used in the regulations, or are commonly understood.
4005	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	We also note that we still do not have clarification related to palms and other monocotyledons in this regulation, and it is a major material in Southern California. We urge you to expressly describe it and exclude it from the definition of organic waste. KL	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.
4006	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	We encourage a further review of the definition of "residual organic waste" for clarity. KL	Comment noted, this comment is not directed at changes made to the second draft of regulatory text.
4007	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Additional definitions are needed, especially to expressly assist Article 12, such as pollution consistent with the SWRCB Trash Policy Reference PRC Code §40171. KL	Comment noted. It is not necessary to define terms, or amend the definition of terms in the regulations to include terms that are not specifically used in the regulations, or are commonly understood.
4008	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<b>An additional definition of "organic waste hauler" would be helpful and relevant to the regulation.</b> KL	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.'
4009	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Efforts to clarify where textiles and carpets reside in these regulations are noted. <b>We encourage further clarity by defining "Incompatible Materials, Reuse and Remanufacturing."</b> KL	Comment does not specifically identify where additional 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.
4010	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	"Biomass conversion" has the same meaning as in Public Resources Code 40106. We support this definition. KL	The comment requires no alteration to the regulations. We thank the commenter for their support.



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4011	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>“Brown container” means a container where the lid of the container is entirely brown in color. Hardware such as hinges and wheels on a brown container may be a different color. Comments: We support this consistency in describing the various colors of containers, including the hardware descriptions. KL</p> <p>Industry members question why we cannot use yellow or brown. VP</p>	<p>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. 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>
4012	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Definition of “Designated Source Separated Organic Waste Facility”</p> <p>Comments: We note that definitions are referenced throughout the regulations with code sections that are reflected in our regulations, such as AB 901. While this may self-resolve once the regulations are finalized in the code, for the ease of the general public’s review of the regulations we encourage specific framing of those definitions throughout this regulatory document. Example: 18815.2 (a) (13) is in AB 901, but for stakeholders not familiar with that regulation, this becomes very difficult to evaluate. AB 901 is a very new regulatory package that has not been fully implemented, and compliance is an unknown at this juncture. KL</p>	<p>Comment noted. Cross referencing definitions in existing CalRecycle regulations ensures that definitions across applicable CalRecycle regulations remain consistent as regulations are updated.</p>
4013	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Definition of “Designated Source Separated Organic Waste Facility”</p> <p>This new definition adds organic content recovery rate performance standards to all MRFs and transfer facilities that manage fiber material, including paper and OCC, as well as facilities that manage green material and food waste. Fiber recycling continues to rely on international markets and poses growing management challenges, including a severe drop in value, loss of markets, contamination issues, etc. It is unclear if this definition is intended strictly for those jurisdictions meeting the requirements of performance-based source-separated organic waste collection service. VP</p>	<p>Facilities are not strictly required to demonstrate that they meet or exceed the standards of a “designated source separated organic waste recycling facility.” If the facilities recovery efficiency exceeds the standards of a “designated source separated organic waste recycling facility” a jurisdiction that implements a performance-based source separated organic waste collection service, may transport source separated organic waste to that facility. If a facility does not exceed the recovery efficiency standards of a designated source separated organic waste recycling facility, a jurisdiction implementing a performance-based source separated organic waste collection service can not send source separated organic waste to that facility.</p> <p>The recovery standards are established as the minimum standards necessary to achieve the purpose of the statute, see statement of purpose and necessity for Section 18982 (a)(14.5). Further the standards are intended to improve performance over current levels, which is necessary to achieve the statutory targets. However, a facility is not required to meet a specific standard, however if it does not meet a standard the types of collection services that can deliver waste to that facility may be limited.</p>
4014	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Definition of “Designated Source Separated Organic Waste Facility”</p> <p>This section also poses an unreasonable standard of 10% or less organic waste in materials sent to disposal when operating an approved composting operation. There is no phase-in alternative offered for this standard. This is especially important considering the need to manage compost-overs and contaminated material as programs grow. Again, it is unclear if this definition is strictly for those jurisdictions meeting the requirements of performance-based source-separated organic waste collection service. VP</p>	<p>Facilities are not strictly required to demonstrate that they meet or exceed the standards of a “designated source separated organic waste recycling facility.” If the facilities recovery efficiency exceeds the standards of a “designated source separated organic waste recycling facility” a jurisdiction that implements a performance-based source separated organic waste collection service, may transport source separated organic waste to that facility. If a facility does not exceed the recovery efficiency standards of a designated source separated organic waste recycling facility, a jurisdiction implementing a performance-based source separated organic waste collection service can not send source separated organic waste to that facility.</p>

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			<p>The recovery standards are established as the minimum standards necessary to achieve the purpose of the statute, see statement of purpose and necessity for Section 18982 (a)(14.5). Further the standards are intended to improve performance over current levels, which is necessary to achieve the statutory targets. However, a facility is not required to meet a specific standard, however if it does not meet a standard the types of collection services that can deliver waste to that facility may be limited.</p>
4015	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>The 10% less organic waste standard as noted above is unreasonable, punitive and inconsistent with Section 39730.6(a)(1) and (2) of the Health and Safety Code. It appears there is no correlation between the mandate and the proposed language of Section 18982(a)(14.5). Further there is no reference to a protocol, standard or procedure to objectively quantify the percentage by volume or weight. KL</p>	<p>Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024.</p> <p>The definition of “designated source separated organic waste recycling facility” in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards. Facilities are not strictly required to demonstrate that they meet or exceed the standards of a “designated source separated organic waste recycling facility.” If the facilities recovery efficiency exceeds the standards of a “designated source separated organic waste recycling facility” a jurisdiction that implements a performance-based source separated organic waste collection service, may transport source separated organic waste to that facility. If a facility does not exceed the recovery efficiency standards of a designated source separated organic waste recycling facility, a jurisdiction implementing a performance-based source separated organic waste collection service can not send source separated organic waste to that facility.</p> <p>The recovery standards are established as the minimum standards necessary to achieve the purpose of the statute, see statement of purpose and necessity for Section 18982 (a)(14.5). Further the standards are intended to improve performance over current levels, which is necessary to achieve the statutory targets. However, a facility is not required to meet a specific standard, however if it does not meet a standard the types of collection services that can deliver waste to that facility may be limited.</p>
4016	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>This definition should include a facility that accepts source separated organic waste from uncontainerized collection operations. KL</p>	<p>Comment noted, nothing in the regulatory text precludes a designated source separated organic waste collection facility from receiving waste collected from uncontainerized collection operations.</p>
4017	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Definition of "Edible Food" Comments: We are not clear what this means, and under what authority is this determination authorized? <b>A code reference is needed.</b> KL</p>	<p>Although CalRecycle does not regulate food safety, it is critical that the following provision is included in the definition of edible food: “(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.” A specific code was not referenced because the California Retail Food Code contains</p>

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			multiple food safety requirements. This provision provides an objective standard familiar to regulated entities.
4018	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Food Employee" Comments: This comment is for (a)(22). Does this cover packing houses prevalent in the Central Valley that cull fruit, for example? KL	The definition of "food employee" was removed from the regulations prior to the release of the June 2019 draft since the term is not used in the regulations. To clarify, in the final regulations (a)(22) contains the definition for "food distributor." "Food distributor" means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores. Any packing house that meets this definition will be required to comply with the edible food recovery requirements of SB 1383.
4019	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Food recovery organization" Comments: While there is no change to the definition of "food recovery," it is related to other parts of the regulation that changed, and it remains unclear what the standard for food recovery is. Will it be in a separate document or a Code reference? We have asked for food banks, non-profit charitable organizations and a non-profit charitable temporary food facility to be referenced by code section. These facilities should be explicitly exempt – Charitable religious, veteran, and community-type organizations that infrequently and occasionally acquire donated edible food from food generators for their memberships. It is not realistic to require donated food for this purpose to be registered beyond the Health and Safety Code requirements. This is counterproductive and harmful to other policy objectives. KL	SB 1383 does not include food safety requirements 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. Regarding the comment, "It is not realistic to require donated food for this purpose to be registered beyond the Health and Safety Code requirements. This is counterproductive and harmful to other policy objectives." Nothing in SB 1383's regulations requires recovered food to be handled beyond the requirements of the California Health and Safety Code. As a result, changes to the regulatory text were not necessary.
4020	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Food service provider" Comments: This definition needs clarification regarding food service and food preparation for airlines, meals on wheels and other ready to eat food service providers that are engaged in providing mobile food services. KL	In the final regulations, "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." Any entity that meets this definition is a tier one commercial edible food generator and will be subject to the commercial edible food generator requirements of SB 1383. With regard to the question about Meals on Wheels, please note that the definition of 'commercial edible food generator' specifies that for the purposes of this chapter food recovery organizations and food recovery services are not commercial edible food generators.
4021	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Fluorinated greenhouse gas" or "fluorinated GHG" Comments: Will these regulations also reference California standards and criteria that are different from federal requirements, or will persons and entities subject to these regulations be bound only by 40 CFR Part 82, subpart A? KL	The scope of the reference to 40 CFR Part 82, subpart A (May 1995) is limited to the identification of controlled substances that are not included in the definition of "Fluorinated greenhouse gas" or "fluorinated GHG" in Section 18982 (a) 27.5. The provided definition originates from CARB's Cap-and-Trade Regulation, contained in the California Code of Regulations, Title 17, section 95102.
4022	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Gray container" Comments: We requested consistency with the definitions of the various container colors and appreciate this change. KL For cost savings to jurisdictions and collection programs, the container definition for all colors should allow for the exposed portion of the lid to be colored via a coating. Lid manufacturers can "coax" the plastic sheet used to manufacture the lids, achieving the desired color, but keeping costs down. VP	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. 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. 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

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			<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>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>
4023	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Greenhouse gas emission reduction" or "greenhouse gas reduction." Comments: "Project Baseline" needs further clarification. Is this definition referring to projects under CEQA, the Clean Air Act or what? Who will make that	Staff added a definition for "project baseline" in section 18982 (a)56.5 to clarify its meaning. "Project baseline" is an estimate of the business-as-usual GHG emissions that would have occurred if the organic waste in question were landfilled instead of recovered. In calculating the

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		determination? Is this a ministerial project baseline or some other action or baseline defined by a code or rule outside of this regulation? KL	GHG emissions reductions pursuant to section 18983.2, staff will compare the project baseline GHG emissions to the "lifecycle GHG emissions" for the specific technology or process to determine if the technology or process constitutes a reduction in landfill disposal.
4024	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Grocery Store" Comments: We noted in our last comments on these regulations that we were seeking clarity on whether bakery/deli/seafood operations that are separately owned in a grocery store are included. Also, are these same entities (bakery/deli /seafood establishments) as separate standalone operations outside a grocery store included in this regulation? It seems there is no reason to exempt any of these establishments, but the definition section does not provide enough clarity in this regard. KL	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 any of the commercial edible food generator definitions or thresholds, it is not required to comply.
4025	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Hazardous wood waste" Comments: We appreciate the reference to the existing requirements for treated wood waste. KL	Comment noted. We thank the commenter for their support.
4026	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Hazardous wood waste" We separately note that there does not seem to be any regulatory pathway for disposal in any of the color-coded containers for this waste. We encourage referencing the existing disposal statute for TWW in this regulation. KL	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
4027	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Jurisdiction" Comments: We requested in our last comments that "handling" was not the proper terminology since some districts don't directly provide handling services, rather they arrange for the services. We had recommended "arranges or provides solid waste handling services." By striking handling, we believe you have attempted to clarify this, and that is appreciated. We continue to ask for review of this definition to make sure we properly identify it. KL	Thank you for the comment. CalRecycle revised the regulation to clarify that it is special districts that provide solid waste collection services.
4028	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Lifecycle greenhouse gas emissions" or "Lifecycle GHG emissions" Comments: Is there a correlation between this definition and that of Section 18982(a)(29.6) for a project baseline? KL "Diversion location" needs to be more clearly defined, perhaps as a "generator location," since associated transportation would affect the lifecycle analysis of emissions. KL	Staff added a definition for "project baseline" in section 18982 (a)56.5 to clarify its meaning. "Project baseline" is an estimate of the business-as-usual GHG emissions that would have occurred if the organic waste in question were landfilled instead of recovered. In calculating the GHG emissions reductions pursuant to section 18983.2, staff will compare the project baseline GHG emissions to the "lifecycle GHG emissions" for the specific technology or process to determine if the technology or process constitutes a reduction in landfill disposal. A definition for "Recovery location" has been added in Section 18982, subdivision (a)(60.5).
4029	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Non-local entity" Comments: We had requested in our prior comments clarity with colleges, and we appreciate this addition. We concur. KL	Thank you for the comment. The comment is in support of current language.
4030	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Paper products" Comments: We had requested this in our prior comments and concur with this change. KL	Thank you for your comment.
4031	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Recovered organic waste product procurement target" Comments: <b>As referenced, "organic waste in the form of a recovered organic waste product" needs to include examples of terms, such as finished compost, composted soil amendments, compost and end use products</b> (i.e., compost erosion control socks, blankets, specialized compost blends for specific agriculture, landscape, soil	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. Once the regulations are finalized, CalRecycle will develop tools

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		remediation, and/or restoration and other projects applications procured by a jurisdiction). The present definition is ill defined and is potentially in conflict with other mandated procurement definitions. KL	to aid jurisdictions with procurement-related questions, including examples of eligible recovered organic waste products.
4032	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Renewable Gas" Comments: We align with the Bioenergy Association of California (BAC) with requested amendment to this definition. See recommendation. KL "Renewable Gas" means gas derived from organic waste that has been diverted from a landfill and <b>is either (a)</b> processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recycle organic waste, <b>or (b) a biomass conversion facility consistent with the PRC Section 40106.</b> BAC – KL concurs	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. Regarding expanding "renewable gas" to include gas from biomass conversion, 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.
4033	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Tier one commercial edible food generator" Grocery store with a total facility size equal to or greater than 7,500 10,000 square feet. Comments: We are seeking the rationale for this change. KL	This comment is seeking clarification of a change that was made to the regulations after the 45-day formal comment period. CalRecycle revised the threshold for grocery stores from 7,500 square feet to 10,000 square feet in response to stakeholder comments received during the 45-day formal comment period. Specifically, comments 3531 and 2072 from the 45-day formal comment period. These comments requested that the threshold be changed to 10,000 square feet to better align with environmental health inspections of grocery stores, so that grocery stores can be more easily identified by the jurisdiction through their local environmental health department's food facility permit records.
4034	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Definition of "Uncontainerized green waste and yard waste collection service" or "uncontainerized service" Comments: Our members very much appreciate this addition and regulatory clarification. VP	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. 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. 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.
4035	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18983.1 Landfill Disposal and Recovery (B) Comments: Some form of organic waste will always remain in the material recovery fines, especially small amounts of fiber. Regulations should have an appropriate threshold where approved material would not constitute disposal. VP Recommended Language Changes Approved material recovery fines that will be	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

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		used for cover material and contain no more than 10% by weight of organic material shall not constitute disposal organic waste. VP	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.
4036	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18983.1 Landfill Disposal and Recovery (B) This provision appears to have a zero tolerance for organic waste to qualify as cover material. Some tolerance needs to be allowed, and some level of organics is present in recyclable feedstock. We urge consideration of this issue and will provide additional comments on this related to our facilities in the <b>CRRC Southern District letter</b> , incorporated in this transmittal. KL	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.
4037	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18983.2 Determination of Technologies That Constitute a Reduction in Landfill Disposal Comments: We are seeking clarification on this section. Does this mean that new technology has to comply with this requirement? Examples would be biochar or in-vessel composting. Are they not considered approved currently? What type of technology is included in this section? KL	Section 18983.1(b) lists the facilities, operations, and activities that can receive organic waste and constitute a reduction in landfill disposal. Other technologies or processes not specified in 18983.1(b) may be submitted and approved in accordance with the requirements of section 18983.2 in order to constitute a reduction of landfill disposal. Biochar and in-vessel composting can be evaluated under section 18983.2 provided sufficient information is submitted which enables a lifecycle analysis of greenhouse gas emissions and GHG emissions reductions.
4038	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984 Comments: We continue to seek clarification in this Article related to the use of palm for organic or non-organic use. We suggest language that allows the compost facility operator to make this determination as its facility dependent. KL	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.
4039	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.1 (a)(1)(A) Comments: We appreciate the inclusion of a written notification process for facilities that accept compostable plastic products. What if a facility accepts compostable plastics, but then determines they can no longer accept this material? For example, if the compostable plastic is hindering their ability to meet the Designated Source Separated Organic Waste Facility recovery rate requirements? VP	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.

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			<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>
4040	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.1 (a)(5)(A) Comments: We recommend the inclusion of a “bulky items” definition, as certain items require a special pick-up including, but not limited to, carpet, tree parts, lumber, palms and other monocotyledons, to name a few. We have referenced CalRecycle’s use of this in their own disposal reporting and it breaks out some of the above referenced items. KL	The term “bulky item” is not used in the regulations. Nothing in the regulations precludes special pick-up of bulky items such as tree trunks.
4041	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.1 (a)(5)(B) Comments: Hazardous wood waste cannot be collected in the blue container or gray container nor in the green container [(a)(5)(A) above]. Where is hazardous wood waste to be collected? KL	<p>This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a></p> <p>CalRecycle will provide jurisdictions the guidance from DTSC.</p> <p>For the comment about pre-1924 organic lumber, the ‘organic lumber’ is organic waste and will be subject to the recycling requirements in Article 3.</p>
4042	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.1 (d) Comments: We appreciate CalRecycle’s efforts related to the use of plastic bags with organics waste collection. We concur with the effort and believe the written notice provision is critical to manage the various jurisdiction circumstances. KL	<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.</p>



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			<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>
4043	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.1 (e)(2) Comments: <b>Correct spelling of “receiving.”</b> KL	Thank you for the comment. CalRecycle changed ‘receiving’ to the correct spelling.
4044	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.2 (a)(1) Comments: Some programs utilize a green container for all organics, including fiber products, and the gray container for all other waste. In this scenario, the gray container does not allow for intentional comingling of organic waste. How would this program fit in Section 18984.2? VP	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 June 2019. 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.
4045	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.2 (a)(1)(C) Comments: This is similar to the Three Container System comment. We concur with the written notification requirement. KL	<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>
4046	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.2(c)(1) Comments: Southern California has a lot of palms and other monocotyledons and would seek clarification related to collection. KL	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.

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			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.
4047	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.2(c)(2) Comments: Hazardous wood waste cannot be collected in the blue container or gray container nor in the green container [(c)(1) above]. Where is hazardous wood waste to be collected? KL	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
4048	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.2 (g)(2) Comments: <b>Correct spelling of "receiving."</b> KL	Thank you for the comment. CalRecycle changed 'receiving' to the correct spelling.
4049	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.3 Comments: CRRC Southern District has commented on this in our prior communication related to unique investments and facilities with unique circumstances with some grandfathering provisions to deal with amortizing the investment. See the CRRC Southern District Addendum for further discussion of regional needs. KL	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4050	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.3 (f)(1) Comments: <b>Correct spelling of "receiving."</b> KL	Thank you for the comment. CalRecycle changed 'receiving' to the correct spelling.
4051	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.4.(a)(4) Comments: Plastics are not listed as a "prohibited container contaminant" for a green organics bin. Can plastic bags be used for food? Clarification is needed. KL	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. 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. Regarding reusable containers, the comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4052	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.5 (b) Comments: CRRC appreciates the change to annually from quarterly. Please note the recommended additional language changes to clarify the methodology. KL	Thank you for the comment. The comment is in support of the current language. 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.

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		<p>Thank you for the cost savings of making this an annual, not quarterly, review process. VP</p> <p>Recommended revision: A jurisdiction may meet its container contamination minimization requirements by <del>shall</del> conducting a route review for prohibited container contaminants on <b>statistically significant</b> and randomly sampled <b>selected</b> containers in a manner that results in all collection routes being reviewed <del>quarterly</del> annually. KL</p>	<p>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>
4053	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.5 (b)(1)(B) Comments: Please add “or gate” as some generators’ doors are not readily accessible due to gated outdoor areas. KL</p> <p>Recommended revision: The notice may be left on the generator’s container, <del>or</del> door, <b>or gate</b> at the time the violation occurs. KL</p>	<p>Thank you for the comment. CalRecycle has revised Section 18984.5(b)(1)(B). The change is necessary to add ‘or gate’ as some generators’ doors are not readily accessible due to gated outdoor areas.</p>
4054	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>18984.5 (c) Comments: We raised significant cost and efficiency concerns with this language in prior communication. We noted that the benefits of route automation were lost with this language. We greatly appreciate striking this section. KL</p>	<p>Comment noted. Commenter expressing appreciation for change.</p>
4055	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>18984.5 (b)(4)(A) Comments: There needs to be some consideration for a blanket consent as a case-by-case basis would be very difficult and expensive. This section needs more specificity. There is confusion with what this appears to imply and what was stated in the workshop on the regulations which indicated that this does not apply to every contaminated load. KL</p>	<p>CalRecycle has removed section 18984.5(b)(4)(A). The change is necessary to clarify that a hauler does not have to get approval on a case-by-case basis but rather can obtain prior consent from the jurisdiction for disposing of container with prohibited container contaminants.</p>
4056	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>18984.5 (c) Comments: We thank you for this alternative pathway to meeting compliance with this section. <b>Correct spelling of “contamination.”</b> KL</p>	<p>Thank you for the comment. CalRecycle changed ‘contamination’ to the correct spelling.</p>
4057	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.5(c)(1)(A) Comments: We are concerned that this seems like an excessive amount of sampling and increased costs to the local jurisdictions. How would this be implemented? Much more specificity needs to be considered, and we have noted and continue to urge alignment with California’s privacy statutes. KL</p>	<p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</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>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. If the commenter is speaking about protecting customer lists, this has also been addressed in the regulations.</p>

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4058	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.5(c)(1)(A) This approach will be a logistical problem including valuable space set aside for sorting and sampling, and permit revisions may be required in many cases. KL	CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.
4059	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.5(c)(1)(A) We note that “Source separated blue container organic waste” is defined in Section 17402 Definitions (18.7). This needs more detail, and the public would be served by examples. KL	A change to the regulatory text is not necessary. The definition was added to clarify that source separated organic waste collected in blue containers that meet this definition would be considered source separated organic waste. CalRecycle staff will develop tools to assist in the implementation of the regulations.
4060	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.5 (c)(1)(D) Comments: It is noted that a sampling protocol is covered in Section 17409.54. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream. It seems redundant and confusing to insert sampling language in this Article. KL	Section 18984.5 (c)(1)(E) evaluates waste collection systems for contamination, whereas, Section 17409.5.4 is performed by solid waste facilities operators on the waste after processing and is a measure of recovery efficiency.
4061	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.5 (e)(1) Comments: Why does this reference Section 17409.5.1 when it appears to mean facilities that meet the definition of Designated Source Separated Organic Waste Facility? VP	Comment noted. Cross referencing definitions in existing CalRecycle regulations ensures that definitions across applicable CalRecycle regulations remain consistent as regulations are updated.
4062	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18984.7 (b) The additional 4 years for the implementation of this Section is very helpful to the communities we serve and for planning purposes. KL	<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</p>

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			<p>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>
4063	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18984.7 (b) We encourage CalRecycle to provide language for non-functional containers prior to the implementation date. There will be a plethora of colors in the system during the ramp up to implementation. We suggest a provision be added to allow the jurisdiction/hauler to develop a phase-out program. We urge flexibility be extended to local government for this plan and for jurisdictions pursuing this to incorporate the implementation plan as part of their annual report. KL	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.
4064	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18984.7 (b) We still note confusion with carts and containers related to commercial and residential customers, and we urge clarification throughout the regulation when referencing this topic. Some of the metal carts will last longer than the implementation date, and we suggest language to remove any restrictions on metal carts in this regulation that are in service at the completion of this regulation. KL	<p>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</p>

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			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.
4065	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18984.7 (b) The regulation should anticipate some jurisdictions that may have local building codes/design requirements particularly prevalent in resort communities. The regulatory process did not analyze this and should accommodate those requirements that are in place at the adoption of this regulation. KL	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.
4066	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	18984.7 (b) We appreciate the several adjustments in this section that will allow for greater cost savings and easier compliance with the regulations. VP	<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>

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			<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>
4067	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.8 (b)(2) Comments: This suggests that the waste stream is static which it is not, and this regulation locks in contaminants with text and graphics. How is this going to be maintained? KL	<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</p>

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			<p>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>
4068	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.8 (b)(2) We don’t have enough clarity on this requirement. What is the size of text and graphics, and what type of containers need labels? We requested clarity on dumpsters/carts/roll-off’s/debris bins. Residential and non-commercial customers? Details are critical for these labor intensive and costly requirements. KL	<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</p>



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4069	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.8 (c) Comments: The industry recognizes that certain items like sharps, batteries, organics in the gray container, etc. are clear contaminants in many cases and can be labeled. However, with a changing waste stream, not all contaminants can be labeled (e.g., compostable plastics). We seek flexibility and understanding that the labels will not capture every contaminant. VP Recommendation Labels shall clearly indicate items that are prohibited container contaminants for each container. KL	<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>

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			<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 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>
4070	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.8 (c) <b>Correct spelling of "contaminants."</b> KL	<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.</p>

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4071	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.10 (b)(1) Comments: We appreciate this clarification in Section 18984.10. We suggest the property owners report to the local jurisdiction outreach required by this section. KL	There is no requirement that jurisdictions report to CalRecycle regarding a business or property owner's education activities, nor is there a requirement for the business/property owner to report to the jurisdiction about education activities. This approach was selected as the least costly and burdensome one that still achieves the organics disposal reductions. If the jurisdiction finds out that a business/property owner is not providing the required education, then the jurisdiction has the ability to begin an enforcement action.
4072	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.11 (a)(2)(A) Comments: We have mentioned in prior comments that a special consideration needs to be given to multi-family properties where bins are frequently put in sideways as nothing else can fit in the space. KL	The regulations allow the jurisdiction to address this situation in the space constraint waiver.
4073	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.11 (a)(2)(A) It is unclear whether the space waiver is grandfathered, is it? It seems this would be efficient so long as there is a provision that if the space changes or can accommodate new/more containers, then compliance needs to be enacted. KL	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.
4074	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12. Comments: We encourage CalRecycle to carefully construct the definitions of "jurisdictions" in these regulations. In the case of the low population waiver we note the reference to incorporated city but there is no reference to a special district that provides or arranges solid waste handling services. KL	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.
4075	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12. The proposed waivers and exemptions language of Section 18984.2(a)(1)(A) and (B) contradict the mandated requirements of AB 617 (C. Garcia) regarding criteria air pollutant and localized toxic air impacts for mobile and stationary sources and their impacts on city, county or special district disadvantaged communities. The language of these waivers and exemptions, as written, creates increased criteria and toxic air pollutant burdens from exposure to cancer-causing diesel particles and increases in VTs and VMTs for organics collection and processing and exposure to diesel particles in disadvantaged communities. Exposure to diesel particulates remains on average twice that experienced in non-disadvantaged communities due to lack of local infrastructure. Waiver conditions for elevations and population should not be the only criteria for Department waivers and or exemptions. Please see our CRRC Southern District letter, incorporated in this transmittal. KL	It is unclear from the comment what the contradiction is between the proposed regulations and AB 617. Requirements in AB 617 apply to CARB and air districts but have no apparent legal relevance to the issuance of waivers pursuant to the provisions of SB 1383 that govern CalRecycle. SB 1383 contains no statutory provisions limiting the scope of these proposed regulations vis a vis AB 617 and contain no apparent conflicting requirements. Regardless, it is entirely unclear from the comment how the optional waivers would increase criteria pollutants in disadvantaged communities. For example, the waivers allow a city with a small population and low levels of waste generation to be exempt from the collection requirements. It is unclear how reduced waste collection requirements in a small border city with a population of 500 people, would increase criteria pollutants in a disadvantaged community on the other side of the state. Nevertheless, CalRecycle analyzed the reasonably foreseeable environmental effects from the proposed regulations in an EIR pursuant to the requirements of CEQA. To the extent the commenter has concerns regarding air quality effects, the CEQA process was intended to address those. A public comment period was provided on the draft EIR.
4076	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (a)(1)(B) The jurisdiction has a total population of less than <del>5,000</del> 7,500 people. Comments: This is a helpful change in the population calculation. KL	Thank you for the comment. The comment is in support of current language.

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4077	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (b) Waivers issued pursuant to subdivision (a) shall be good for a period of up to <del>two</del> <b>five</b> years and shall be subject to approval by the Department as follows:... Comments: This was a requested change in the regulations to allow for more flexibility for low-income, disadvantaged communities and to provide more discretion for franchise contract implementation. KL	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.
4078	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (b)(3) Comments: The Department has a specified 90 days to renew and evaluate a waiver, but it stops short of confirming a date for granting an exemption. We would appreciate clarity on this. KL	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.
4079	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (d)(1) Comments: We appreciate the acknowledgement of the need for some remediation for elevation, and this is helpful. However, particularly in Southern California a careful analysis of the rationale for the elevation waiver is needed, and we encourage in addition to elevation it is not only elevation, but also a reflection of feedstock as well. KL	The elevation waiver only exempts generators from collection and separating food waste and food soiled paper. Therefore, the waiver already is considerate of the feedstock. CalRecycle has clarified that an entire incorporated city must be located at or above 4,500 feet elevation. A census tract must be partially located at or above 4,500 feet elevation, if a portion of the tract is at 4,500 feet, the entire tract may be waived. The elevation waiver is intended to address the specific waste collection challenges that jurisdictions 4,500 feet and above face 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. Food waste separation and recycling would pose public safety issues that would be extremely costly for generators in those jurisdictions to mitigate. The elevation waiver is necessary to prevent those extreme costs as well as the potential threats to public safety. 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. The elevation waiver is not intended to address the driving conditions of routes with varying elevations.
4080	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (d)(1) Additionally, we note that some jurisdictions have elevations that vary as the route advances, and elevation could peak and then drop down to the collection location. How is it evaluated? KL	The elevation waiver only exempts generators from collection and separating food waste and food soiled paper. Therefore, the waiver already is considerate of the feedstock. CalRecycle has clarified that an entire incorporated city must be located at or above 4,500 feet elevation. A census tract must be partially located at or above 4,500 feet elevation, if a portion of the tract is at 4,500 feet, the entire tract may be waived. The elevation waiver is intended to address the specific waste collection challenges that jurisdictions 4,500 feet and above face 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. Food waste separation and recycling would pose public safety issues that would be extremely costly for generators in those jurisdictions to mitigate. The elevation waiver is necessary to prevent those extreme costs as well as the potential threats to public safety. 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. The elevation waiver is not intended to address the driving conditions of routes with varying elevations.

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4081	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (d)(1) It is difficult just to look at elevation, as some of those areas have more food waste programs than some lower elevation areas, such as a desert community? It is about the feedstock, not the elevation. KL	<p>The elevation waiver only exempts generators from collection and separating food waste and food soiled paper. Therefore, the waiver already is considerate of the feedstock.</p> <p>CalRecycle has clarified that an entire incorporated city must be located at or above 4,500 feet elevation. A census tract must be partially located at or above 4,500 feet elevation, if a portion of the tract is at 4,500 feet, the entire tract may be waived. The elevation waiver is intended to address the specific waste collection challenges that jurisdictions 4,500 feet and above face 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. Food waste separation and recycling would pose public safety issues that would be extremely costly for generators in those jurisdictions to mitigate. The elevation waiver is necessary to prevent those extreme costs as well as the potential threats to public safety. 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>The elevation waiver is not intended to address the driving conditions of routes with varying elevations.</p>
4082	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (d)(1) It is our understanding that this waiver is intended to protect communities that co-exist with bears. There are jurisdictions at lower elevations that may experience bear problems. We encourage CalRecycle to offer case-by-case waivers to jurisdictions that may encounter bear activity due to organics collection and may not be at 4,500 feet or above. VP	<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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 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>

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			<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 &lt;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>
4083	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (d)(6) Comments: Is there a timeline to approve the waiver in addition to reviewing and evaluating it? KL	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.
4084	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.12 (d)(7) Comments: I believe there must be a typo referencing Section 19894.3, and it instead was probably meant to be 18984.3. KL	Thank you for the comment. CalRecycle changed the referenced section number to the correct one.
4085	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.13 (commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: We appreciate the many additions to this section. VP	Thank you for the comment. The comment is in support of the current language.

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4086	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.13 (a)(1)(commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: <b>We request both “temporary” and “unforeseen” be included.</b> KL</p> <p>Recommendations:</p> <p>(1) . . . have been imposed upon it by a regulatory agency or that an unforeseen, <del>temporary</del> equipment or operational failure . . . KL</p> <p>(2) . . . have been imposed upon it by a regulatory agency or that an unforeseen <b>temporary</b> equipment or operational failure . . . KL</p>	Thank you for the comment. CalRecycle corrected the spelling of ‘unforeseen.’ No additional changes are necessary for adding “temporary” as the text already has "temporarily' further in the sentence.
4087	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.13 (a)(1) (commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: This waiver should apply to both temporary and unforeseen equipment and operational failure incidents. VP</p> <p>Recommendations:</p> <p>(1) . . . have been imposed upon it by a regulatory agency or that an unforeseen, <del>temporary</del> equipment or operational failure . . . KL</p> <p>(2) . . . have been imposed upon it by a regulatory agency or that an unforeseen <b>temporary</b> equipment or operational failure . . . KL</p>	Thank you for the comment. CalRecycle corrected the spelling of ‘unforeseen.’ No additional changes are necessary for adding “temporary” as the text already has "temporarily' further in the sentence.
4088	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.13 (a)(1)(commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: <b>Correct spelling of “unforeseen.”</b> KL</p> <p>Recommendations:</p> <p>(1) . . . have been imposed upon it by a regulatory agency or that an unforeseen, <del>temporary</del> equipment or operational failure . . . KL</p> <p>(2) . . . have been imposed upon it by a regulatory agency or that an unforeseen <b>temporary</b> equipment or operational failure . . . KL</p>	Thank you for the comment. CalRecycle corrected the spelling of ‘unforeseen.’ No additional changes are necessary for adding “temporary” as the text already has "temporarily' further in the sentence.
4089	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.13 (a)(2) (commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: <b>Recommend both “unforeseen” and “temporary” be inserted here consistent with the request on the (a) (1)</b></p> <p>Recommendation. . . and the Recycling and Disposal Reporting System Number of the facility that experienced the <b>unforeseen</b> temporary equipment or operational failure preventing it from receiving the jurisdiction’s waste.</p>	Thank you for the comment. CalRecycle corrected the spelling of ‘unforeseen.’ No additional changes are necessary for adding “temporary” as the text already has "temporarily' further in the sentence.
4090	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.13 (b)(2)(commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: This appears to clarify that disaster waivers apply to organic waste collection services in impacted jurisdictions. We concur with this but think you need language to clarify that it does not count as disposal. It is not reported if it is not disposal. KL</p>	The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.
4091	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.13 (b)(2) (commenter mistakenly wrote that this comment was for Section 19084.13.) We interpret that material disposed under this section would not count toward organic disposal. Is this correct? VP</p>	The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.
4092	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18984.13 (c) (commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: We interpret that material disposed under this section would not count toward organic disposal. Is that correct? VP</p>	The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.

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4093	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.13 (d) (commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: We interpret that material disposed under this section would not count toward organic disposal. Is that correct? VP	The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.
4094	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.13 (d)(2) (commenter mistakenly wrote that this comment was for Section 19084.13.) Comments: We had flagged the need for alignment with the quarantine requirements and appreciate greatly this addition and the code references. KL	Thank you for the comment. The comment is in support of the current language.
4095	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18984.14 (a)(7) Comments: <b>Delete second "of."</b> K Recommendation: A record of <del>of</del> the amount of solid waste . . . KL	Thank you for the comment. CalRecycle deleted the second 'of' in the sentence.
4096	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.1 (b) Comments: <b>Delete second "to" in first sentence.</b> KL Recommendation: . . . A jurisdiction providing an unsegregated single container collection service to <del>shall provide to</del> organic waste generators . . . KL	Thank you for the comment. CalRecycle has revised Section 18985.1(b) to delete the second 'to.'
4097	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.1 (c) Comments: Can the information in this section be provided as one distribution whether electronic or in print format? KL	Comment noted. The regulations are proposed for adoption two years prior to their effective date, providing CalRecycle time to educate jurisdictions and other regulated entities.
4098	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.1(e)(1) Comments: We thank you for the language clarification. However, no reference is provided as to the source of the numbers in the regulations. While it is assumed the source is the US census, the source should be specified. KL	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
4099	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.1(e)(1) The amended ISOR still has the old language (5% and "Limited English Speaking Households" or "linguistically isolated," and that is different from the text in this section (10,000 and 0.5% that "speak(s) English less than very well." This is confusing and should be aligned. KL	The text regarding linguistic outreach requirements is linked to the requirements of Section 7295. The definitions and provisions governing that section of law shall apply. Government Code 7295 states: "Any materials explaining services available to the public shall be translated into any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. The determination of when these materials are necessary when dealing with local agencies shall be left to the discretion of the local agency." Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards. Thank you for the comment. CalRecycle has revised section 18992.1(c)(3)(D) to align with the linguistic education revisions in Section 18985.1(e).
4100	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.1(e)(1) The current public health requirement is 5% "substantial number of non-English-speaking people" (California Government Code Section 7296.2). This should be taken into account in these regulations. This represents collaboration with local government stakeholders. KL	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
4101	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.1(e)(1) This represents collaboration with local government stakeholders. KL	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
4102	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.1(e)(2) Comments: What is the metric used for determining translation into languages, and how frequently does this need to be updated? By looking at US Census Fact Finder, we note that Los Angeles County would need to translate 13 languages, excluding English, from the tally. KL	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.



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4103	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.2 (a)(1) Comments: What is the method used to maintain the list, and if a jurisdiction inadvertently does not include a food recovery service, what is the consequence? How frequently does this need to be updated, and if a food recovery service surfaces after the list is completed, what is the obligation to update? KL	<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 and updated annually. It is at the discretion of individual jurisdictions to determine the food recovery organizations and services that they believe 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. 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. 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. For this reason, the regulations do not specify the procedure’s outlining how each list should be maintained.</p> <p>Regarding the comment about frequency, the regulatory text was revised to require that the list be updated on an annual basis. If a food recovery service begins operating in the jurisdiction after the list has been developed, it is at the discretion of the jurisdiction to decide if the new food recovery service should be added to the list immediately, or if the service should be added when the jurisdiction does their annual update of the list.</p>
4104	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18985.2 (b)(1)(D) Comments: Does this requirement imply that CalRecycle will provide guidance to jurisdictions to instruct generators on how to prepare menus or use various ingredients? KL	<p>The commenter is asking for clarification of a regulatory requirement. This comment is regarding the edible food recovery education and outreach requirement that jurisdictions shall annually provide commercial edible food generators with information about actions that commercial edible food generators can take to prevent the creation of food waste. To clarify, CalRecycle will not provide specific guidance in the regulations on how to prepare menus or how to use various ingredients. There are many different methods that can be used to help generators reduce the volume of surplus food they generate, and the methods will vary depending on the type of generator. For that reason, the regulations do not specify the kind of food waste prevention education and outreach that must be provided. It is at the discretion of the jurisdiction to determine what information will be most meaningful to the commercial edible food generators in their area.</p>
4105	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.1 Comments: We generally support the changes made in this Article and just flagged a few clarifying requests. KL	<p>Thank you for the comment. The comment is in support of current language in this section.</p>
4106	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.1(c)(1)(B) Comments: We restate our prior request that a cross reference to the existing TWW statute be incorporated in the regulations for clarification and consistency. KL	<p>This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC.</p>

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			For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
4107	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.1 (c)(1)(B) Also, hazardous wood waste cannot be collected in the blue container or gray container nor in the green container [(c)(1)(A) above]. Where is hazardous wood waste to be collected? KL	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
4108	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.1 (c)(1) Comments: We requested this language be stricken from the regulation as it was confusing when considered with other sections. We concur with this change. KL	Thank you for the comment. CalRecycle amended the applicable sections for consistency.
4109	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.2 (c)(1)(A) Comments: We like the clarification expressed with this language. KL	Thank you for the comment. CalRecycle amended the applicable sections for consistency.
4110	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.2(c)(1)(B) Comments: As we have referenced, we believe a cross-reference to the existing statutes for TWW disposal would be helpful. KL	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.
4111	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.2 (d) Comments: Thank you for the addition of Local Education Agencies on reporting here and in (e) and (f) below. Can this be the hauler or the jurisdiction? KL	A hauler or jurisdiction could conduct tasks on behalf of the local education agencies, however local education agencies do not have specific organic waste reporting requirements under the regulation.
4112	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18986.3 Comments: We seek clarification on who is doing the reporting and to whom they are reporting. Can this be done by the hauler annually? KL	It is unclear what the comment is referring to as the section cited does not refer to reporting.
4113	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18987.1 Comments: We had requested in our prior communication on these regulations to delete this section and concur with the change. KL	Comment noted. We thank the commenter for their support.
4114	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18988.1 Comments: There is ambiguity in the language of this article regarding the regulation of commercial service providers contracted by generators for organics maintenance services. Examples of contracted commercial service providers servicing generators of organic waste include, but is not limited to, utility company easement maintenance contractors, landscape maintenance contractors, lot clearing contractors, golf course maintenance contractors, street trees and jurisdiction maintenance district landscape contractors for parks, rights of way, etc. Through this omission, large quantities of organic wastes will potentially be disposed of at landfills or mismanaged through land application. This all leads to flawed data which has enforcement implications for all. KL Please see our <b>CRRC Southern District letter</b> , incorporated in this transmittal. KL	The definition of 'hauler' in Section 18982(a)(31) of these regulations refers to existing Title 14 Section 18815.2(32): 'Hauler' means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. 'Hauler' includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler. As described, "organic maintenance services" would be landscapers which are self-haulers as they are the actual entity generating this waste.
4115	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18988.1 (b) Comments: To remedy the foregoing omission, appropriate amendments to this and other sections of Article 7 should include a provision to	CalRecycle has determined this section is adequate as this situation is already covered. As described, "organic maintenance services" would be landscapers which are self-haulers as they

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		state that a jurisdiction allows generators subject to its authority, when contracting for commercial organics maintenance services, to include a requirement that the contract service provider of the generator haul organic waste in compliance with Section 18988.3(b)(1)(2) or (3). KL	are the actual entity generating this waste. The definition of 'hauler' in Section 18982(a)(31) of these regulations refers to existing Title 14 Section 18815.2(32): 'Hauler' means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. 'Hauler' includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.
4116	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18988.1 (c)(2) Comments: We requested in prior comments the inclusion of the word "lawfully" and appreciate this was added to these regulations. KL	Thank you for the comment. The comment is in support of current language.
4117	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18988.2 (b)(4) Comments: <b>We are concerned about the deletion of this language</b> and believe self-haul should report as there is no other mechanism to obtain the numbers. Since there is a lot of yard waste hauled this way, it is important to have those numbers. Without such reporting, how would you determine self hauling from other jurisdictions? We believe there needs to be more consideration of this category for reporting. KL	A change in language is not needed. It would be unnecessarily burdensome to require self-haulers to report, it is unclear why self-hauling from other jurisdictions would need to be determined.
4118	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18988.3 (b)(4) We would suggest consideration of explicit language regarding CDFA quarantine areas and permissible transport and disposal be reinforced in this section. KL	Self-haulers will have to comply with any local applicable requirements. With regard to quarantines see statement of purpose and necessity for Section 18984.12 and comment.
4119	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18988.4 (b)(4) Section (b) states that self-haulers are required to comply with Section 18988.3, keeping records. It only makes sense to report annually. There are already skewed numbers and issues with self-haul reporting numbers at transfer stations and landfills. This would not only add to the confusion but would also be asking for more skewed data. KL	A change in language is not needed. It would be unnecessarily burdensome to require self-haulers to report, it is unclear why self-hauling from other jurisdictions would need to be determined.
4120	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18988.4 (a)(3)(B) Comments: <b>We suggest this language be added back into the regulations.</b> KL	A change to the regulatory text is not necessary. Jurisdiction have the discretion to add enforceable mechanisms into their ordinances to determine if a self-hauler is complying with the requirements which may include reporting annually
4121	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18989.1 Comments: The 2018 Green Building Standards include MWELo as part of the jurisdiction adoption of the code. The existing code needs to be amended in the future to add granularity of organic waste diversion; however, it will require work outside the present codes and standards in place at this time. KL	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" be 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. Thank you for the comments. The comment is not asking for a change and is in support of current language.
4122	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18989.1 (a) Comments: We requested in our prior communication alignment with the current Green Building Standards Code and appreciate this inclusion. KL	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" be 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

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			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. Thank you for the comments. The comment is not asking for a change and is in support of current language.
4123	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18989.2 Comments: We appreciate this important addition and opportunity to support compost and mulch use.	Thank you for the comment. The comment is in support of current language.
4124	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18989.2 (a) Comments: The reference to the Model Water Efficient Landscape Ordinance was a request in our prior comments on the regulations as a very important addition to this regulation. We thank you for this addition. KL	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” be 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. Thank you for the comments. The comment is not asking for a change and is in support of current language.
4125	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18990.2 (d) Comments: We continue to encourage that more flexibility be built into this section to reflect changes in market conditions and technology changes. KL	Comment noted. Nothing in this section restricts consideration of market conditions or innovative technologies. A change to the regulatory text is not necessary.
4126	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18992.1 Comments: <b>There is ambiguity in the terms “jurisdiction” and “cities” in sections 18992.19(c), (c)(3)(b), (c)(4), (g), etc.</b> Note: <b>“jurisdiction” should be applied to the provisions of this Article to include special districts with solid waste collection services.</b> If the term “cities” remains, it implies that special districts such as LACSD and other districts are not accounted for in the planning process. KL	The term jurisdiction is defined in Section 18982. The terminology used in Article 11 is appropriately aligned with the requirements of existing statute whereby some jurisdictions (e.g. cities and regional agencies) work in coordination with counties to identify organic waste recycling capacity. CalRecycle has Section 18992.1 to provide further clarity that counties are required to estimate disposal of organic waste from all jurisdictions, not just cities.
4127	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 Comments: We want to first comment on the significant changes to the procurement section. We had requested in prior communication the addition of MWELO. We are appreciative the expansion of renewable natural gas uses that count toward the jurisdictions targets. We concur with the addition of biomass procurement options and the paper procurement alignment with the Public Contracts Code. KL	Thank you for your comment.
4128	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 We believe it is imperative that more expansive consideration be given to compost end uses and a more robust interface with the Short-Lived Climate Reduction Strategy and the SB 1383 Infrastructure and Market Analysis Draft Report. Note the recommended language requested in our prior communication and renewed in this comment period. KL	Compost is only one of the recovered organic waste products a jurisdiction may procure to fulfill their procurement target. The procurement requirements are designed to provide flexibility, as CalRecycle recognizes the diversity of jurisdictions across California. Not all jurisdictions need compost, and it would be unnecessary and burdensome to require it for every jurisdiction.
4129	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 Here are two ideas to further develop on Article 12. Procurement of Recovered Organic Waste Products: KL 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	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 each jurisdiction’s soil organic

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		<p>California are notoriously below 1%. Those communities can “correct” their SOM content through use of these products. KL</p> <p>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. KL</p>	<p>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 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. For more information regarding restrictions on the eligibility of mulch see the FSOR.</p>
4130	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 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. KL</p>	<p>CalRecycle cannot impose procurement mandates on other sectors without the necessary statutory authority, which SB 1383 lacks.</p>
4131	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 We are grateful for the addition of new organic waste products to meet the jurisdiction’s procurement target. VP</p>	<p>Thank you for your comment.</p>
4132	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 We continue to recommend the addition of a pathway, similar to Section 18983.2 that would allow for the determination of future eligible recovered organic waste products not yet considered. VP</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. 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>
4133	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 (b) Recommendation: Annually, the Department shall <del>assign</del> <del>confirm</del> and provide notice of the annual <del>recovered organic waste compost</del> <del>compost</del> product procurement target for each jurisdiction, which shall be calculated <del>by multiplying the per capita procurement target by the jurisdiction population where:</del> KL</p>	<p>CalRecycle disagrees with the comment’s suggestion to eliminate all other recovered organic waste products except compost. The comment lacks justification for this substantial change, and it would burden jurisdictions who do not have a need for compost. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste products that best fit local needs.</p>
4134	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 (b)(1) Comments: 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. KL</p>	<p>This comment is related to a proposed methodology for modifying the procurement target to a compost-only target. CalRecycle disagrees with the comment’s suggestion to eliminate all other recovered organic waste products except compost. The comment lacks justification for this substantial change, and it would burden jurisdictions who do not have a need for compost. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste products that best fit local needs.</p>
4135	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 (b)(1) The 36 percent of compost uses for municipal projects can be further broken down into any number of municipal project applications carried out by jurisdiction public works, contract services, jurisdiction compliance obligations</p>	<p>This comment is related to a proposed methodology for modifying the procurement target to a compost-only target. CalRecycle disagrees with the comment’s suggestion to eliminate all other recovered organic waste products except compost. The comment lacks justification for this</p>

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		with water board orders, stormwater management compliance, land use conditions, CEQA mitigation, and construction projects all mandated through state and local police powers. KL	substantial change, and it would burden jurisdictions who do not have a need for compost. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste products that best fit local needs.
4136	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 (d) Comments: "Recovered organic waste" should be "compost." KL Recommendations: <del>Beginning</del> On or before January 1, 2022 and on or before January 1 every five years thereafter, the Department shall recalculate the annual <del>recovered organic waste</del> <b>compost</b> product procurement target for each jurisdiction according to the requirements of subdivision (b). KL	CalRecycle disagrees with the comment's suggestion to eliminate all other recovered organic waste products except compost. The comment lacks justification for this substantial change, and it would burden jurisdictions who do not have a need for compost. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste products that best fit local needs.
4137	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 (f)(1)(B) Comments: Language in this section is fixed in time and does not take into account future advancements in science and technology. The current proposed regulatory language in Article 12. Section 18993.1 (f) would prohibit potential incentives for highest and best use of the material that is derived from the back end of the in-vessel system and would be contrary to what we are collectively attempting to achieve which is the diversion of organic waste from the current waste stream. For this reason we believe that the language in this section should be modified as found above. KL Recommendation: A Large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that compost on-site <b>or otherwise complies with Chapter 3.2, Article 6 "Digestate Handling Standards."</b> <del>[NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</del> KL	Compost produced at a facility identified in 18993.1(f)(1) constitutes a recovered organic waste product. The facilities identified in that section are: "(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this division; or (B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article." Those identified facilities could use digestate as a feedstock to produce compost. However as identified in the note in the regulatory text in Section 18993.1, digestate itself is not compost and is not a recovered organic waste product. Digestate, like food waste, and green material is an organic material and it is appropriately defined as organic waste in the regulations. The note referenced above was included to clarify that items defined as organic waste in the regulations, and "recovered organic waste products" such as compost and mulch should not be confused as equivalents, and that incentivizing procurement of organic waste recycling byproducts is not the intent of the regulations.
4138	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 (f)(2) Comment: Mulch and through-put on anaerobic digestion operation as it turns into compost should be added here. KL Recommendation: 2) Renewable gas used for <del>transportation</del> fuel for transportation, electricity, heating applications, or pipeline injection, <b>mulch and through-put on anaerobic digestion operation as it turns into compost.</b> KL	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 "through-put on anaerobic digestion", which is assumed to be digestate that is composted, 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.
4139	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 (f)(2) Comments: 1) <b>Correct spelling of "transportation."</b> KL	Thank you for your comment, the error was corrected.
4140	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 (g)(1)(A) <del>21</del> 19 diesel gallon equivalents, or "DGE," of renewable gas in the form of transportation fuel. KL	CalRecycle updated the renewable gas transportation fuel conversion factor from 19 to 21 DGE based on recommendations from ARB for using the higher heating value (HHV) instead of the lower heating value (LHV). The initial calculation of 19 DGE was based on a LHV of 910 Btu/SCF. However, since it is standard practice for utility bills and other financial transactions for RNG to be calculated on a HHV basis, CalRecycle and ARB modified the calculation to be consistent with that

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			<p>approach, and used a HHV of 1,010 Btu/SCF which results in 20.67 DGE, rounded to 21 DGE (see below equation):</p> $2,724 \text{ SCF CH}_4/\text{ton} \times 1,010 \text{ Btu/SCF CH}_4 \div 133,075 \text{ Btu/gal diesel} = 20.67 \text{ DGE}$
4141	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 (i) Comments: <b>Correct spelling of “electricity.”</b> KL	Thank you for your comment, the error was corrected.
4142	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 (j) Comment: 2) Compost should be added here. We also encourage that language be added here for additional technology pathways. KL</p> <p>Recommendation: 2) If a jurisdiction’s annual recovered organic waste product procurement target exceeds the jurisdiction’s total procurement of <b>compost or</b> transportation fuel, . . . KL</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 or mulch (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 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>
4143	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.1 (j) Comments: 1) <b>Correct spelling of “converted,”</b> page 52, line18. KL	Thank you for your comment, the error was corrected.
4144	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18993.1 (k) Comments: Compost products and renewable transportation fuels should be added here. KL Please see the comments in our CRRC Southern District letter, incorporated in this transmittal, for compost uses. KL</p> <p>Recommendation: A jurisdiction shall identify additional procurement opportunities within the jurisdiction’s’ departments and divisions for expanding the use of <b>compost products, renewable transportation fuels or</b> recovered organic waste products. KL</p>	<p>The definition of “recovered organic waste products” includes compost and renewable transportation fuels, among other products. It is unnecessary to specify 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> <p>Regarding the grammar edit, CalRecycle has revised the regulatory text to “jurisdiction’s”. Thank you for the comment.</p>
4145	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18993.2 (a)(4) Comments: This requirement seems to be no more than an extension of the C&D, MWELO and recycling reporting requirement already mandated for jurisdiction compliance reporting. KL	It is unclear what, if any, specific changes the commenter is requesting. Section 18993.2(a)(4) clearly describes the record-keeping requirements for direct service providers. This section is necessary to ensure CalRecycle can monitor compliance with the requirements of Article 12.
4146	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 18994.2. (a)(1) Comments: <b>Delete second “the.”</b> KL</p> <p>Recommendation: Notwithstanding (a), a jurisdiction that complies with Section 18994.1 may submit the <del>the</del>, . . .</p>	A change to the regulatory text is not necessary. Jurisdiction have the discretion to add enforceable mechanisms into their ordinances to determine if a self-hauler is complying with the requirements which may include reporting annually
4147	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18994.2 (b)(4) Comments: We support the inclusion of this language to reduce compostable plastic contamination. VP We concur with this language KL	Comment noted. Comment is not recommending a change to the regulatory text.

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4148	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18994.2 )b)(5) Comments: We support the inclusion of this language to reduce plastic contamination. VP We concur with this language and policy objective. KL	Comment noted. Comment is not recommending a change to the regulatory text.
4149	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1.Comments: We remain concerned about residential services being included in this section and economic impacts should be considered. We believe a measured approach to implementation should occur, with commercial first since the underpinnings are in place with other policies, such as AB 1826, and then phase in residential after the framework is tested. We think that disadvantaged communities, as defined in statute and using the OEHHA screening tool, should be explicitly provided a social justice exemption initially, except for the educational outreach. KL	Comment noted, residential collection services are necessary as more than half of organic waste is generated by the residential sector. The regulations section ensure that organic waste recovery options are available. The regulations continue the state’s phase in of mandatory organic waste recycling services which began with large commercial generators in 2016, and will include residential generators in 2022. It is unclear what is meant by a social justice exemption.
4150	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1. We flagged the SRIA document in our last filing on this matter, and we noted the cost of this program annually is over \$7.3 million. We don’t believe the analysis correctly frames the real benefits, thus the numbers could be much higher. There is no dedicated revenue stream for this program, thus this Enforcement Article in the regulation appears to be the only funding stream. This could lead to a “bounty hunting” type of approach to enforcement on some of the most vulnerable in our communities. KL	<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> <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>
4151	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1. Article 3 and Article 12 regarding waivers, exemptions and procurement thresholds seem unenforceable. None of the proposed language provides equity for all jurisdictions. As an example, the City of Vernon (a city of commerce and industry) has a population of around 300 people and disposes of about 2,000 tons of organics. According to the language of SB 1383, Vernon gets a free pass. Conversely, the City of Blythe (a low-income disadvantaged city) with a population of 19,000, including about 6,000 prisoners and which disposes of about 650 tons of organics, gets punished by over-regulation. From a climate change reduction perspective, who makes the greater contribution to an air quality emissions burden for criteria pollutants, air toxics and GHG emissions? The City of Vernon employs about 55,000 people per year that is not accounted for in the SB	Regarding Article 12 waivers and exemptions, all jurisdictions are required to meet their procurement target based on the calculations in Section 18993.1(b). The population-based procurement target is intended to result in proportional targets for each jurisdiction, therefore the argument for comparing cities is not valid. Similarly, the argument that a city’s employees “are not accounted for” is not valid because those employees are residents in a jurisdiction somewhere and are accounted for in that population. 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.



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		1383 regulations. The greater burden for GHG reductions is on the City of Vernon, not the low-income disadvantage city and or communities. Refer to AB 617 for guidance. KL	Regarding prison population, 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.
4152	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1. The regulations also provide no benchmark for a reasonable or credible evidentiary standard that CalRecycle must follow to enforce under this regulation. We urge consideration of a standard, and we note that Section 18995.3 should follow this pathway. Any investigation must have first-hand credible evidence to determine if there is a conscious attempt to circumvent compliance of the regulation. Using enforcement powers as an educational outreach tool is an overreach. KL	A change to the regulatory text is not necessary. Section 18996.1 states the Department will review a jurisdiction's Implementation Record and Annual Reporting and conduct inspections, compliance reviews, and route reviews to evaluate a jurisdiction's overall compliance with this Chapter. The Department finds that adding an intent requirement to the enforcement of these regulations is inappropriate and places too high a bar. Such intent requirements are more appropriately reserved for negligence standards or criminal violations.
4153	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1. (a)(2) Comments: <b>Replace with correct spelling of "beginning."</b> VP	CalRecycle has revised section 18995.1 (a)(2) in response to this comment. The text will be revised accordingly.
4154	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1 (c) Comments: Thank you for including the option of an electronic record. VP Expanding the reporting methods is appreciated and can increase efficiency. KL	Comment noted. Comment expresses opinion and is not a recommendation for regulatory text changes.
4155	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1 (d) Comments: Thank you for expanding documentation beyond "copies of all reports." VP	Comment noted. Comment expresses opinion and is not a recommendation for regulatory text changes.
4156	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1 (d) This broader wording "documentation" is helpful and suggest examples of documentation would be appreciated. KL	Comment noted. Comment expresses opinion and is not a recommendation for regulatory text changes.
4157	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.1 (d)(3) Comments: <b>Correct spelling of "entity."</b> KL Recommendation: A list of the date(s) that the jurisdiction determined <del>the</del> an entity <del>es</del> complied . . . KL	CalRecycle has revised section 18995.1 (d) (3) in response to this comment. The text will be revised accordingly.
4158	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.2 (d) Comments: The additional time is appreciated. KL	Comment noted. Comment expresses opinion and is not a recommendation for regulatory text changes.
4159	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.4. Comments: We subscribe to a graduated enforcement approach. KL	Comment noted. Comment is not a recommendation for regulatory text changes.
4160	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.4 (a)(2) Comments: There should be some expression of "reasonable notice" for access to inspection in this Article and throughout the regulation when inspections are anticipated. KL	A change to the regulatory text is not necessary. A jurisdiction has the discretion to add a provision to their ordinance that allows for a "reasonable notice" when inspecting entities.
4161	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.4 (a)(3)(B) Comments: 90 days may not provide adequate time to respond to an ordinance's program deficiencies. KL	A change to the regulatory text is not necessary. Section 18996.1(e) was revised in the 45-day comment period to allow a jurisdiction 180 days to correct deficiencies to an ordinance.
4162	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18995.4 (b)(1) Comments: The impact on disadvantaged communities is prevalent in this regulation. These communities could be disproportionately impacted by the penalty section, and they have the least resources to respond. We	SB 1383 states no legislative intent to square the proposed regulations with the statutes described in the comment. These regulations were directed to achieve the organic waste diversion requirements and provided broad authority to CalRecycle to do so.

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		note that the premise of the entire SLCP program is focused on areas where these pollutants are prevalent, but it also places the foundational implementation of this regulation on the “backs of those communities” first. The entire Cap- and-Trade program is designed to assist those communities, and resources are dedicated in the program to accomplish this. However, it doesn’t seem that it was envisioned that they would be economically disadvantaged under SB 1383. KL	
4163	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	The “Corrective Action Plan” (CAP) is not sufficiently addressed in this regulation, and this could lead to a “passing the buck” approach. We urge that if a jurisdiction is deemed not to be doing all that it should, then the jurisdictions enforcement powers should be limited or suspended until the corrective action has been initiated. Otherwise, the responsibilities of implementation are placed on those they have a contractual relationship with or administrative powers over without the needed corrective steps being taken. KL	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
4164	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18996.1 (e) Comments: Thank you for the extension to jurisdictions to alter deficient ordinances. VP This is an improvement, and we suggest that if a jurisdiction has a corrective ordinance underway that might take longer than the 180 days to clear its docket, there should be a pause in enforcement action pending a definitive timeline to resolve. KL	A change to the regulatory text is not necessary. Section 18996.1 allows 180 days for a jurisdiction, once noticed, to correct any deficiencies with an ordinance. If a jurisdiction cannot correct the deficiencies within 180 days, the Department will commence enforcement action as set forth in Section 18996.2. A jurisdiction will be issued a Notice of Violation requiring compliance in 90 days. The jurisdiction has the option to request an extension for an additional 90 days.
4165	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18996.2 (a)(2)(C)(1) Comments: Thank you for expanding the list of potential emergencies under extenuating circumstances. VP We concur with these changes. KL	Comment noted. This comment is expressing opinion, not a change to the regulatory text.
4166	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18996.2 (a)(4) Comments: We support the 12-month extension but seek more clarity on what constitutes “substantial effort.” VP We appreciate the extension but <b>need a concrete description of what “substantial effort” means.</b> It is vague and could cause untold legal impacts. KL	A change to the regulatory text is not necessary. It is unclear from the comment what aspects of the provision are vague. Section 18996.2(a)(2)(B) clearly describes "substantial effort."
4167	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18996.7 (a) Comments: We appreciate the clarification and inclusion of federal facilities to this Section. VP	Comment noted. Comment is not recommending a regulatory text change.
4168	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18996.9 (c)(2)(A) Comments: <b>Correct spelling of “disasters.”</b> KL	CalRecycle has revised section 18996.9 (c) (2) (A) in response to this comment. The text will be changed accordingly.
4169	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18997.2 Comments: We appreciate you clarifying the difference between a violation and 1st, 2nd, 3rd, or subsequent offense	Comment noted. Comment is not recommending a change to the regulatory text.
4170	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18997.5 (b) (commenter mistakenly wrote Section 18991.5 (b)) Comments: Again, thank you for the clarity regarding the difference between offense and violation. VP	Comment noted. Comment is not recommending a change to the regulatory text.
4171	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18997.3. Comments: Thank you for clarifying the violation as it pertains to container contamination minimization requirements.	Comment noted. Comment is not recommending regulatory text changes
4172	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18998. Comments: All sampling methodologies should be reduced to a minimum of 7 days versus 10 days. KL Please see the <b>CRRC Southern District letter</b> , incorporated in this transmittal, for a discussion of the process we suggest should be followed for Article 17. KL	A change to the regulatory text is not necessary. The sampling frequency of 10 consecutive days per quarter 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;

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			<p>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 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>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>
4173	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18998.1 (a)(1) Comments: Rather than have 90% of all generators comply, we recommend that the commercial entity threshold be reduced to 80% by 2025 and then 90% by 2030. The justification for this is that we are now dealing with commercial businesses that have container sizes that range from 2 cubic yards up to 4 cubic yards, which is a very sizable and difficult population to deal with as these are extremely small mom and pop businesses that most likely have a minimum amount of organic waste associated with their businesses. KL	<p>Comment noted. The minimum threshold of 90 percent was established to align with the statutory requirements to reduce organic waste disposal by 75 percent by the year 2025. Only requiring waste collection from 80 percent of generators would significantly decrease the likelihood that the state could achieve the organic waste reduction targets.</p> <p>Additionally, organic waste collection services that are established in Article 3 of the regulation are only authorized to issue waivers under the conditions prescribed in Section 18984.11. Jurisdictions that implement a performance-based source separated organic waste collection service may waive up to 10 percent of commercial and 10 percent of residential generators at their discretion. The purpose of authorizing jurisdictions that provide performance-based source separated organic waste collection service to allow up to 10 percent of their commercial and 10 percent of their residential generators to forego service without the explicit granting of a waiver is to reduce a compliance burden for these jurisdictions that meet the alternative performance standards established in this section. Second, the waivers authorized under Section 18984.11 are anticipated to allow jurisdictions to waive up to 10 percent of their generators from the organic waste collection service requirements. Therefore, only requiring jurisdictions providing a performance-based source separated organic waste collection service to provide service to 90 percent of their generators provides parity with other jurisdictions.</p>

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4174	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18998.1 (a)(1) This section, as written, requires levels of service that may not be possible due to space constraint, lack of organic waste volume, quarantined materials, etc. We would appreciate a reference to the appropriate related sections. KL	Comment noted. Jurisdictions are not required to 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.
4175	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18998.1(a)(4) Comments: <b>We recommend that all new commercial and residents be automatically enrolled every 60 days rather than 30 days.</b> Thirty days may be a little too quick. KL	Comment noted. The provision requiring 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.
4176	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18998.1(a)(4) This section, as written, requires levels of service that may not be possible due to space constraint, lack of organic waste volume, quarantined materials, etc. We would appreciate a reference to the appropriate related sections. KL	Comment noted. The minimum threshold of 90 percent was established to align with the statutory requirements to reduce organic waste disposal by 75 percent by the year 2025. Only requiring waste collection from 80 percent of generators would significantly decrease the likelihood that the state could achieve the organic waste reduction targets. Additionally, organic waste collection services that are established in Article 3 of the regulation are only authorized to issue waivers under the conditions prescribed in Section 18984.11. Jurisdictions that implement a performance-based source separated organic waste collection service may waive up to 10 percent of commercial and 10 percent of residential generators at their discretion. The purpose of authorizing jurisdictions that provide performance-based source separated organic waste collection service to allow up to 10 percent of their commercial and 10 percent of their residential generators to forego service without the explicit granting of a waiver is to reduce a compliance burden for these jurisdictions that meet the alternative performance standards established in this section. Second, the waivers authorized under Section 18984.11 are anticipated to allow jurisdictions to waive up to 10 percent of their generators from the organic waste collection service requirements. Therefore, only requiring jurisdictions providing a performance-based source separated organic waste collection service to provide service to 90 percent of their generators provides parity with other jurisdictions.
4177	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 18998.2 (a)(1) Comments: <b>CalRecycle refers to Sections 19884.1,19884.2 and 19884.3, but these do not exist. It appears citation numbers are transposed.</b> KL	Thank you for your comment, the error was corrected.
4178	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17402. Comments: Updates to Section 18984.2 clarify that intentional comingling of organic waste in the gray container requires processing at a high diversion organic waste processing facility, not the blue container. VP Section 18984.1 only allows for collection of non-organic waste in the gray container. VP Recommendation: "Mixed Waste Organic Collection Stream" means organic waste collected in a <del>blue container</del> or a gray container that is required by Section <del>18984.1</del> , 18984.2, or 18984.3 of this division to be transported to a high diversion organic waste processing facility. VP	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 with the requirements of Sections 18984.1, 18984.2, and 18984.3.

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4179	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 17402.(18.6) Comments: This should include source separated organic waste collected by noncontainerized systems in addition to the containerized systems listed. KL</p> <p>Recommendation: "Source Separated Organic waste" or "Source Separated Organic Waste Collection Stream" means organic waste that is collected in a green container as specified in Sections 18984.1(a)(1) and 18984.2(a)(1), "source separated blue container organic waste," as defined in this section, <del>and</del> organic waste collected in <del>or</del> an additional a yellow container or other container as specified in Section 18984.1(a)(6) of this division, <b>and organic waste collected by noncontainerized systems.</b> KL</p>	<p>CalRecycle has revised this section in response to comments. The change included the addition of organic waste collected by noncontainerized systems under the definition of "source separated organic waste collection stream." The change is necessary to allow the collection of organic waste at the point of generation to be included in the definition of "source separated organic waste collection stream" because it is accomplishing the same results as collecting it in a container.</p>
4180	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 17402.(18.6) mixed waste organic collections stream. Updates to Section 18984.2 clarify that intentional comingling of organic waste in the gray container requires processing at a high diversion organic waste processing facility, not the blue container. VP Section 18984.1 only allows for collection of non-organic waste in the gray container.</p>	<p>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 with the requirements of Sections 18984.1, 18984.2, and 18984.3.</p>
4181	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	<p>Section 17409.5.1.Comments: We support the reduction in frequency for sampling in this section, but strongly recommend the sampling occur over seven consecutive days. VP</p>	<p>A change to the regulatory text is not necessary. The sampling frequency of 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 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>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>

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4182	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.2.Comments: We support sampling over seven consecutive days. VP	<p>A change to the regulatory text is not necessary. The sampling frequency of 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 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>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>
4183	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.3 Comments: We support sampling over seven consecutive days. VP	<p>A change to the regulatory text is not necessary. The sampling frequency of 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"</p>

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			<p>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 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>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>
4184	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.4.Comments: We support sampling over seven consecutive days. VP	<p>A change to the regulatory text is not necessary. The sampling frequency of 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 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>

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			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.
4185	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.7.Comments: Loadchecking should still be an option for facilities not engaging in waste evaluations.	A change to the regulatory text is not necessary. The loadchecking requirement was removed and replaced with the gray container waste evaluations based on comments received from during the 45-day comment period. The purpose of gray container waste evaluations is to measure how much organic waste is contained in the gray container collection stream. This cannot be accurately determined by a visual inspection. The regulations do not prohibit any operator from doing more than is required.
4186	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.7.Comments: This section should only pertain to those gray container streams from jurisdictions seeking to demonstrate compliance with the Performance-Based approach. Those operators managing material from jurisdictions not under Section 18998 should have the option to loadcheck their incoming gray material stream. VP	CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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. The purpose of the gray container waste evaluations 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.
4187	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.7.Comments: While we appreciate the changes to Section 18984.5, we question why Section 17409.5.7 is significantly more rigorous and excessive in frequency and sampling methodology? In alignment with container contamination minimization Section 18984.5, evaluations should occur twice a year, not every quarter. VP	CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4188	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.7.1. Comments: The tonnage threshold per jurisdiction is too low for the amount of waste evaluations expected. This would require hundreds of annual evaluations and is duplicative if occurring at both the MRF/transfer station and again at the landfill. VP	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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



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			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.
4189	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.7.2.Comments: (a)(2) – “Any remnant organic material” is overly broad for the intended purpose of measuring the effectiveness of organic waste diversion programs. Different types of organic materials are differentiated in various other parts of these regulations because of their recyclability. Also, some items discovered in the waste stream are made up of both organic and nonorganic materials. These regulations should be clarified so those items can be counted as waste and not as organics. We would appreciate your providing the same differentiation basis in this section as this section could, if taken literally, inadvertently misreport and cause an otherwise successfully program as being ineffective. KL	Comment noted. Remnant organic material is defined in Section 17402(a)(23.5) and is the organic waste collected in the gray container, as part of a three-container organic waste collection system. The purpose of the gray container waste evaluations is to determine how much organic waste is present in the gray container collection stream in order to collect data regarding how effective organic waste is being recovered and use the results as a way to gauge the accuracy of the jurisdictions waste composition studies and the jurisdictions container contamination minimization results. It is also intended to collect information on the type and quantities of organic waste not being recovered for possible future regulations to help target and recover those materials.
4190	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17409.5.10.5 Comments: We interpret the addition of this Section to mean that an operator of a facility that accepts a source-separated collection stream and further processes it at a co-located facility does not need to report the transfer of this organic waste if kept on-site. VP	CalRecycle has revised the proposed regulations text dated January 18 during the 45-day comments in response to comments 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. 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.
4191	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17414.2 Comments: Creating and maintaining records including the physical location for each property that receives compostable material for land application and the weight of what is received is not practical. This would be an administrative function that would be burdensome and have little potential value in achieving the intended goal of these regulations. When Title 14 regulations were being revised several years ago to fight against the problem of “dirty” organic materials being land applied, this issue was discussed by CalRecycle and some stakeholders. It was resolved by the new Title 14 regulations which require operators to adhere to physical contamination limitations for this material. <b>This section should be removed as it is unnecessary.</b> KL	CalRecycle has revised Section 17414.2(b) in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of compostable material sent off site to any destination other than to permitted solid waste facility or operations, the percentage of incompatible material, and the total weight of the compostable material sent off site that day. The purpose is to specify that the material sent off to a destination that is not a permitted solid waste facility has less than 20% incompatible material on and after 2022 and 10% on and after 2024. This is necessary to ensure that the material was processed to a level that a receiving facility can recovery the material.
4192	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17867.Comments: We appreciate that quarterly reporting is now consistent throughout the regulations. VP	Comment noted. Comment supports the regulatory text.
4193	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17867 Comments: The prescribed measurements standards and protocols of Section 17409.5.2 through 17409.5.8 do not produce credible results for reporting and enforcement purposes. This will be covered in the <b>CRRC Southern District letter</b> , incorporated in this transmittal. KL	It is unclear from the comment why the prescribed measurements will not produce credible results or what clarity they are seeking. The methodology described in Sections 17409.5.2 through 17409.5.8 requires 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. 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

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			<p>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>
4194	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 17896.57.Comments: First, it appears digestate sent for compost or further processing must be sent to a Designated Source Separated Organic Waste Facility. If so, we recommend you remain consistent in the document and reference the definition in Section 18982(a)(14.5). Nevertheless, we question the rationale for limiting further processing to facilities that meet performance-based standard requirements when some jurisdictions may not achieve those standards when programs are in their infancy or infrastructure development is in process. In the case that a Designated Source Separated Organic Waste Facility is unavailable, digestate would likely need to be disposed, which is counter to the goal of diverting this material from the landfill. VP	<p>A change to the regulatory text is not necessary. Section 17896.57 specifies digestate must go to a compost facility that demonstrates that the organic waste sent to disposal is no more 20% on and after 2022 and 10% on and after 2024 or a transfer/processing facility or operation that has no more than 20% of incompatible material on and after 2022 and 10% on and after 2024 that is destined for disposal, not a designated source separated organic waste facility. The designated source separated organic waste facility are facilities that a jurisdiction can send their waste to in order to meet the performance-based source separated organic waste collection service. The purpose of this section is to ensure that digestate that needs further processing is sent to facilities that comply with the incompatible materials limit specified in Section 17409.5.8. This is necessary because these facilities effectively meet the recovery efficiency standards set forth by SB 1383 since the material sent for recovery by transfer/processing facilities or operations will ultimately be at least 80% organic on and after 2022 and 90% on and after 2024 and material sent for disposal by compost facilities will be no more than 20% on and after 2022 and 10% on and after 2024.</p>

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4194.5	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Comments: <b>Please see our comments for Title 14, Chapter 3, Section 17409.5.7 – 17409.5.7.2. The waste evaluations occur too frequently and should be twice a year.</b> VP	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4195	Lynch, K., CRRC Statewide and Pardo, V., CRRC North	Section 20901.1. Comments: <b>Please see our comments for Title 14, Chapter 3, Section 17409.5.7 – 17409.5.7.2.</b> VP	CalRecycle has deleted Section 20901.1 in response to comments
4196	Lynch and Pardo CRRC	Infrastructure Development Challenges CalRecycle is very familiar with the siting and permitting challenges we face in building the necessary infrastructure to manage over 20 million tons of organic material annually by 2025. This will require a near tripling of our current infrastructure at a time when district rules make siting particularly difficult in certain regions of the state. For example, Rule 1133 in South Coast Air Quality Management District and the developing Regulation 13, Rule 2 in Bay Area Air Quality Management District put severe restrictions on VOC emissions at facilities handling organics. According to CalRecycle’s recent April 29, 2019 report titled SB 1383 Infrastructure and Market Analysis, “there has not been a major new composting facility within the SCAQMD since Rule 1133 went into effect.” <b>These challenges reinforce the need to accommodate and promote current and developing organic management infrastructure, not impose unachievable recovery standards.</b>	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.
4197	Lynch and Pardo CRRC	Disadvantaged Community Concerns Nowhere does the regulation take into account the cost of service for communities that may not have the financial capacity to meet the obligations of SB 1383. Though the regulations include a low population waiver, rural exemption and elevation waiver, there is no consideration for low-income or disadvantaged populations, or little synchronicity with existing mandates for these communities. Given the considerable increase in service required to meet SB 1383, it is reasonable to assume some communities may be unable to absorb SB 1383 costs. We recommend a pathway to address this issue when considering whether a jurisdiction is in compliance with SB 1383.	Comment noted. CalRecycle carefully considered which specific waivers and exemptions to collection requirements that would balance relieving the burden on certain generators without preventing CalRecycle from achieving the statutory mandates for reductions in landfill disposal. The waivers and exemptions in the regulations impact approximately 5% of the organic waste stream and would still allow achievement of the statutorily mandated reductions in landfill disposal. Exempting economically disadvantaged communities would result in significantly more reductions in organic waste collected and adversely impact the achievements of the statewide reductions in landfill disposal goals.

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4198	Lynch and Pardo CRRC	<p>Designated Source Separated Organic Waste Facility</p> <p>We seek clarity on whether a Designated Source Separated Organic Waste Facility is only a requirement of the Performance-Based Source-Separated Organic Waste Collection Service approach, or whether there are other instances where this facility is required.</p>	<p>Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024.</p> <p>The definition of “designated source separated organic waste recycling facility” in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards.</p>
4199	Lynch and Pardo CRRC	<p>Designated Source Separated Organic Waste Facility</p> <p>The current language suggests a transfer/processor facility can meet this definition if they recover over 50% of their organics between January 1, 2022 and December 31, 2024 <b>OR</b> (emphasis added) if they recover 75% after January 1, 2025. Will facilities that meet the first phase be required to demonstrate compliance with a 50% recovery rate after January 1, 2025?</p>	<p>Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024.</p> <p>The definition of “designated source separated organic waste recycling facility” in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards.</p>
4200	Lynch and Pardo CRRC	<p>Designated Source Separated Organic Waste Facility</p> <p>Why is there no phase-in option or incentive for early adoption of compost facilities? According to this definition, compost facilities must meet a very stringent standard of no less than 10% organic waste in materials sent to disposal. This percentage is unrealistic and severely restricts the very infrastructure we desperately require. This percentage is particularly challenging if compost-overs must count as disposal.</p>	<p>Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024.</p> <p>The definition of “designated source separated organic waste recycling facility” in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify</p>

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			as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards.
4201	Lynch and Pardo CRRC	Performance-Based Source-Separated Organic Waste Collection Service We appreciate the inclusion of an alternative pathway to meet the obligations of SB 1383 but suggest, among other recommendations, a phased-in approach where service is offered to at least 80% of generators in 2025 and 90% by 2030. More detail is provided in Article 17 of our matrix comments.	Comment noted. The minimum threshold of 90 percent was established to align with the statutory requirements to reduce organic waste disposal by 75 percent by the year 2025. Only requiring waste collection from 80 percent of generators would significantly decrease the likelihood that the state could achieve the organic waste reduction targets. Additionally, organic waste collection services that are established in Article 3 of the regulation are only authorized to issue waivers under the conditions prescribed in Section 18984.11. Jurisdictions that implement a performance-based source separated organic waste collection service may waive up to 10 percent of commercial and 10 percent of residential generators at their discretion. The purpose of authorizing jurisdictions that provide performance-based source separated organic waste collection service to allow up to 10 percent of their commercial and 10 percent of their residential generators to forego service without the explicit granting of a waiver is to reduce a compliance burden for these jurisdictions that meet the alternative performance standards established in this section. Second, the waivers authorized under Section 18984.11 are anticipated to allow jurisdictions to waive up to 10 percent of their generators from the organic waste collection service requirements. Therefore, only requiring jurisdictions providing a performance-based source separated organic waste collection service to provide service to 90 percent of their generators provides parity with other jurisdictions.
4202	Lynch and Pardo CRRC	Gray Container Waste Evaluations The latest draft includes entirely new language on the evaluation of remnant organic material in the gray container collection stream. We read this to be the gray container stream that is not required to be sent to a high diversion organic waste processing facility.	Comment noted. The interpretation is correct. Remnant organic material is organic present in the gray container collection stream. The regulation states that the: "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 as specified in Section 18984.1(a) and (b).
4203	Lynch and Pardo CRRC	Gray Container Waste Evaluations This new section has operators sampling the gray container at the jurisdictional level every quarter, with up to 5 waste evaluations per jurisdiction per quarter. One CRRC member facility serves 40 jurisdictions, all disposing of over 1000 tons a year. In this case, they would need to perform 800 individual waste evaluations in one year, in addition to the blue and green can sampling requirements. This is an unreasonable amount of evaluations, especially considering it is significantly more than what is expected from the container contamination minimization process for blue and green containers. Additionally, the fiscal impact and implementation costs for this section are entirely unknown. Modifications to the methodology are necessary to reduce these costs and build a more realistic program.	CalRecycle revised 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 be required at the 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.
6365	Macy, J., City of San Francisco	Section 18982 Definitions	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.

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		(a) (51) We appreciate that buildings insulation and panels are no longer included among the paper products listed. Also add the clarification that plastic-coated paper is not considered a paper product.	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.
6366	Macy, J., City of San Francisco	Section 18984.1 Three-container Organic Waste Collection Services (a)(1)(A) We appreciate the addition of the standard for accepting compostable plastics include in organic collection service. For consistency, we recommend referencing the applicable requirements specified in sections 42370.2 (e)(2) of the Public Resources Code. The Public Resources Code includes the reference to applicable standard specifications, including ASTM D6400 and D6868. We request that you also require certification by the Biodegradable Product Institute (BPI) or other third party recognized by CalRecycle. The standard specification (ASTM D6400) results demonstrate the ability of a plastic product to be labeled as compostable in an industrial composting facility. BPI facilitates crucial technical review to ensure the tests were conducted consistently in an approved lab. The third-party entity also monitors whether the commercially marketed product is the same as the product tested and promotes a consistent labeling standard to comply with the Federal Trade Commission Guides for the Use of Environmental Marketing Claims (Green Guides).	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. 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 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.
6367	Macy, J., City of San Francisco	(d) We recommend against allowing organic materials to be collected in conventional plastic bags in the green container. The options for organics recovery outlined in the draft regulations are broad and provide for local discretion adapted to local infrastructure and discards. The discretion shouldn't extend to proactively allowing the most common contaminant—plastic—to be collected along with organics. Among the established source-separated organics collection systems already in California, we already see the challenge of contamination. There's evidence that allowing conventional plastic bags in compost is related to increased contamination of other plastics. The public doesn't easily distinguish between a plastic bag allowed to contain organics and other undesirable plastics associated with food like packaging, plastic	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. 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 plastic bags, prohibiting non-compostable plastic bags, requiring clear bags, requiring

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		film, gloves, etc. Facilities will already be asked to scale up quickly and accept growing volumes of post-consumer organics while observing strict limits on contamination of incoming and outgoing material. Allowing jurisdictions to initiate programs using conventional plastic bags will require cost-prohibitive processing and produce compost product with limited application options.	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.
6368	Macy, J., City of San Francisco	Section 18984.5 Container Contamination Minimization (b) We strive to have all route bins regularly visually inspected on the surface and tagged for contamination as needed by drivers during collection. To do a more thorough inspection for contamination even for randomly selected bins as this section requires could involve significant additional dedicated staff time. Annual inspections in combination with the reporting required for each incident stipulated in Section 18984.6 for all routes will still be very onerous and that level of reporting unnecessary.	Thank you for the comment. The comment is in support of the current language. 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. CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs.
6369	Macy, J., City of San Francisco	(c) The option to meet the container contamination minimization requirements by conducting waste evaluations is appreciated. We question the necessity to conduct seasonal waste composition studies. The goal of the studies is to establish whether prohibited container contaminants exceeds 25 percent in the sample, not the proportional weights of the different materials. If annual review is considered enough for route-based visual inspection, it should be sufficient at the facility level as well. The number of samples required is not clear by the thresholds outlined in section (c)(1)(D). Does "routes with more than 7,000 generators" refer to a route with 7,000 individual generators on that one route or throughout the jurisdiction? It is unlikely that any jurisdiction would service more than 1,500 generators in one route. As proposed the waste evaluation option seems excessive for the intended goal of monitoring contamination levels. In some ways it exceeds the Waste Characterization study that our city conducts every seven years.	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 evaluations 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. However, what constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste. Comment noted, CalRecycle revised the regulation to remove the overlap in the tiers. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.
6370	Macy, J., City of San Francisco	Section 18984.11 Waivers and Exemptions Granted by a Jurisdiction	CalRecycle has revised the verification period to five years in response to this comment.

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		(a)(1)(B) Verification of service levels for businesses granted waivers every 24 months is not a good use of limited enforcement resources given that the business has already been identified to generate a small amount of organic material. <b>Revise to be at least every five years.</b>	Thank you for the support comment. This comment is in support of the current language. Nothing precludes a jurisdiction from requiring a generator to develop a solution to overcome the space constraint during the waiver period. CalRecycle is allowing these waivers to be reissued every five years, instead of one time only, because the issue of space or amount may not change significantly during that timeframe. CalRecycle does not agree that a jurisdiction is “obligated to monitor” space waivers beyond the initial issuance of the waiver. The language in 18984.12(a)(2) does not speak to what a jurisdiction must monitor after issuance of such waivers. In addition, a jurisdiction does not have to provide space constraint waivers to generators; the language is permissive (i.e., “jurisdictions may...”).
6371	Macy, J., City of San Francisco	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 may make identifying the specific generators difficult. The account holder will be the waiver holder in this case.	A change to the regulatory text is not necessary. The account holder will suffice for the name of the generator.
6372	Macy, J., City of San Francisco	Section 18985.1 Organic Waste Recovery Education and Outreach (b) Items (a) (2) through (6) that highlight the reasons for organic waste prevention should be also be required for one-container collection as it would be beneficial and offer opportunities to reduce emissions. If these additional components of education and outreach are not required 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.	Jurisdictions with a one container collection system are only exempt from the outreach requirements related to proper separation. The other outreach requirements must still be communicated to a jurisdiction’s generators. This slight difference in outreach requirements will not disincentivize jurisdictions to have a multiple container system.
6373	Macy, J., City of San Francisco	(e) The proposed language access regulations are flawed and will lead to unnecessary resource expenditure across California counties. The regulations assume a direct correlation between a certain percentage of the population that speaks a language other than English and the need for translation, rather than evaluating the percentage of language speaker’s with limited English proficiency (LEP). If the goal of the proposed language regulations is to provide limited English populations access to information and services that they would not otherwise be aware of without in-language translations, then the regulations should be modeled after San Francisco’s Language Access Ordinance’s (LAO), one of the strongest in the nation. San Francisco’s LAO requires language services for LEP individuals who comprise 5% or more of the total city population, rather than 1383’s arbitrary requirements to provide language translation based on the number or percentage of language speakers relative to the entire population. San Francisco’s needs assessment approach to language access avoids unnecessary financial investments in language support for populations that don’t need it while meeting the language needs of the populations that require it. The number of LEP individuals in any language population can vary greatly by language type and without a needs assessment, counties will likely invest in language tools that are unneeded.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.



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		<p>For example, the proposed regulation to make information available online in any language spoken by more than 10,000 persons or 0.5% of jurisdiction would require San Francisco to post information in French, despite the fact that less than 1 percent of the French population (or 1,000 individuals) would actually require support. Furthermore, San Francisco would be required to translate materials into 11 different languages, knowing that many of these in-language resources are unnecessary and will not be utilized. For this reason, we suggest omitting the requirement that for any language spoken by more than 10K persons or 0.5% of the jurisdiction, information be available online.</p>	
6374	Macy, J., City of San Francisco	<p>Section 18985.3 Recordkeeping Requirements for a Jurisdiction’s Compliance with Education and Outreach Requirements  (a) (2)-(3) We appreciate the addition of the allowance to use electronic media, but still this level of record keeping is unnecessary. It 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.</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>
6375	Macy, J., City of San Francisco	<p>Section 18992.2 Edible Food Recovery Capacity  Estimating the amount of edible food disposed will be challenging and onerous if detailed assessments, audits or samples are required at each generator. Being able to use a standard CalRecycle characterization of percent of edible food by generator and multiplying that by number of generators minus estimates of recovered food from recovery organizations would be much more practical. Even upon consulting with edible food recovery organizations and food recovery services as added to the regulations, estimating edible food capacity may be difficult for organizations to do with fluctuating flow of recovered food. Capacity is dependent on level of staffing and volunteer work and can drain limited staff resources.</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>
6376	Macy, J., City of San Francisco	<p>Section 18993.1 Recovered Organic Waste Product Procurement Target  San Francisco does not have anywhere near the end use capacity to meet the procurement targets of compost, fuel or mulch products. Based on the City’s 2018 reported population, we would be required to procure 710,717 equivalent tons of products made from recovered organics. San Francisco is one of the densest cities in California and is geographically restricted with limited land for compost or mulch application. Additionally, our municipal fleet is transitioning from renewable diesel to all-electric.  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.</p>	<p>The commenter’s procurement target calculation is inaccurate. According to the Department of Finance, the city of SF had a 2018 population of 880,980. Multiplied by the per capita procurement target of 0.08 = 70,478 tons of organic waste, which is SF’s procurement target, not 710,717. 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</p>

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			<p>other environmental goals to reduce the carbon intensity of products and activities cities procure material for use.</p> <p>CalRecycle has added section 18989.2 to the proposed regulations which will require jurisdictions to adopt an ordinance or other enforceable requirement requiring compliance with the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. 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. If, as mentioned in the comment, the city has limited need for compost or fuel, the city may procure electricity or heating applications derived from renewable gas.</p>
6377	Macy, J., City of San Francisco	<p>Section 18995.1 Jurisdiction Inspection and Enforcement Requirements</p> <p>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 two or more cubic yards per week and hundreds of routes, to be able to do a compliance review of all accounts and routes every year and waiver accounts every other year. Even with potential increased staffing, it is not conceivable to be able to do so in less than three years. More flexibility in ensuring adequate and reasonable compliance is needed. For many jurisdictions implementing new mandatory programs greater flexibility is needed in the early years as programs ramp up.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
6378	Macy, J., City of San Francisco	<p>Section 18995.2. Implementation Record and Recordkeeping Requirements</p> <p>(c) Ten business days is still too quick to respond to a request for the Implementation Record. <b>Recommend extend to thirty business days.</b></p>	<p>A change to the regulatory text is not necessary. Section 18995.2 was previously changed to allow a 10-day turnaround time for providing the Department with access to the Implementation Record. This is not a reporting requirement but a record access requirement. It is the intent of the regulations that the Implementation Record will be maintained as current and up to date as possible, which would not cause a burden on a jurisdiction's staff resources when access is requested and 45 days is an excessive length of time to provide access to existing records.</p>
6379	Macy, J., City of San Francisco	<p>Section 18998.1 (a) We appreciate the effort to streamline the requirements for jurisdictions like San Francisco with mature organics collection programs. The first two performance-based thresholds are reasonable and appropriate measures for a successful source-separated organic waste collection service.</p>	<p>Comment noted. CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. The minimum performance standards that apply to material collected in the green containers in a performance-based source separated organic waste collection service, ensure that collected organic waste is recovered to the minimum degree necessary for the state to achieve the organic waste reduction targets established in statute. This section is necessary to ensure that addition to the requirements that organic waste that is collected in green containers is recovered, a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. 25 percent was established as a threshold to mirror the intent and the 75% organic waste diversion threshold established in statute.</p>

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			<p>Absent this section, a jurisdiction would only be implementing a performance-based source separated organic waste collection system and generating 100 tons of organic waste would only need to send the material collected in the green container to a facility that can recover 75 percent of the material in the green container. If the jurisdiction only collects 50 tons of organic waste in the green container and sends it to a facility that recovers 75 percent of that material, up to 50 tons could be sent directly to disposal in the gray container. Removing this section would compromise the state’s ability to achieve the organic waste reduction targets.</p> <p>Further, jurisdictions implementing a performance-based source separated organic waste collection system, are not subject to the strict education and outreach requirements prescribed in Article 4. This exemption is premised on the jurisdiction’s existing education programs being sufficient to meet or exceed the state’s minimum standards. The organic waste threshold measured in the gray container is a key indicator of the efficacy of the program. Comment noted. The gray container waste evaluations are not only indicative of the amount of organic waste that continues to be disposed in jurisdictions that are implementing a performance-based source separated organic waste collection service, which is an important metric for ensuring the state achieves the statewide targets. The requirements also reflect that jurisdictions implementing these services are not required to comply with enforcement and education and outreach requirements included in other portions of the chapter. The gray container waste evaluations are a way of demonstrating performance that is equivalent to or greater than the minimum requirements jurisdictions would otherwise be subject to. Further, after material is recovered from a gray container waste stream, it cannot be accurately associated with the jurisdiction of origin, and even if it could, such a measurement would be used to quantify a jurisdiction-specific diversion target. As noted in several comments, jurisdiction-specific diversion requirements are precluded by statute.</p> <p>See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3.</p>
6380	Macy, J., City of San Francisco	<p>The third requirement of less than 25% of organic waste in the gray container is unrealistic at the proposed timeframe. We would be surprised if any jurisdiction would meet that threshold, in which case the intent of the streamlined requirement would not be achieved. Even in a community like San Francisco that has long implemented separated organics collection and had it mandatory for the last decade cannot meet the 25% threshold of all organics in the residual stream. We have seen that state facilities participating in separated organics collection also often do not meet the 25% threshold. We recommend against using % organics threshold in the grey bin as it is not realistic or fully reflects reduction of organics landfilled.</p>	<p>Comment noted. CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. The minimum performance standards that apply to material collected in the green containers in a performance-based source separated organic waste collection service, ensure that collected organic waste is recovered to the minimum degree necessary for the state to achieve the organic waste reduction targets established in statute. This section is necessary to ensure that in addition to the requirements that organic waste that is collected in green containers is recovered, a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. 25 percent was established as a threshold to mirror the intent and the 75% organic waste diversion threshold established in statute.</p> <p>Absent this section, a jurisdiction would only be implementing a performance-based source separated organic waste collection system and generating 100 tons of organic waste would only need to send the material collected in the green container to a facility that can recover 75 percent</p>

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			<p>of the material in the green container. If the jurisdiction only collects 50 tons of organic waste in the green container and sends it to a facility that recovers 75 percent of that material, up to 50 tons could be sent directly to disposal in the gray container. Removing this section would compromise the state’s ability to achieve the organic waste reduction targets.</p> <p>Further, jurisdictions implementing a performance-based source separated organic waste collection system, are not subject to the strict education and outreach requirements prescribed in Article 4. This exemption is premised on the jurisdiction’s existing education programs being sufficient to meet or exceed the state’s minimum standards. The organic waste threshold measured in the gray container is a key indicator of the efficacy of the program. Comment noted. The gray container waste evaluations are not only indicative of the amount of organic waste that continues to be disposed in jurisdictions that are implementing a performance-based source separated organic waste collection service, which is an important metric for ensuring the state achieves the statewide targets. The requirements also reflect that jurisdictions implementing these services are not required to comply with enforcement and education and outreach requirements included in other portions of the chapter. The gray container waste evaluations are a way of demonstrating performance that is equivalent to or greater than the minimum requirements jurisdictions would otherwise be subject to. Further, after material is recovered from a gray container waste stream, it cannot be accurately associated with the jurisdiction of origin, and even if it could, such a measurement would be used to quantify a jurisdiction-specific diversion target. As noted in several comments, jurisdiction-specific diversion requirements are precluded by statute.</p> <p>See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3.</p>
6381	Macy, J., City of San Francisco	<p>If a recovery or disposal reduction performance metric must be included, we recommend a more comprehensive organics recovery demonstrated through a citywide waste generation study as an alternative to meeting % organics threshold in the gray bin. If the state is to meet a reduction of organics to landfill through all the avenues stipulated by the proposed regulations—including prevention and donation of edible food—the citywide study measuring the recovery from all those initiatives would better reflect actual organics recovery and disposal reduction. Allowing the use of a citywide generation study conducted periodically, such as every 5 years (the increased frequency that we will be conducting them), to demonstrate a 75% recovery rate of organics from a community provides a broader performance metric. The broad view of a generation study matches the scale of the challenge of engaging every generator and accounting for a breadth of organic material regulated by 1383.</p>	<p>Comment noted. This comment assumes that the recovery efficiency standards established in Article 17 are equivalent to an overall jurisdiction diversion target. They are not, as such a requirement is precluded by the statutory language of SB 1383.</p> <p>See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3.</p>
6382	Macy, J., City of San Francisco	<p>If an organics recovery or disposal reduction threshold is to be used, we also recommend a phased approach to requiring a performance-based target to be met. This would mirror the requirements applied to a high diversion organic waste processing facility and attempt to maintain parity among the various methods a jurisdiction may pursue to recover organics for their higher and better use(s). The</p>	<p>Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and</p>

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		recovery rates should match those outlined in Section 18982 (33) of 50 percent or more by 2022 and 75 percent by 2025.	facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024. The definition of “designated source separated organic waste recycling facility” in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards.
6240	Maher, D., Ecology Center	Berkeley has spent millions of dollars to implement and is committed to a dual-stream recycling program. Berkeley's dual stream recycling system is based on the foundation of our customer education. Our education and outreach materials have carried a consistent message for decades, and it has produced a very low residual rate of less than 5%. We have simplified our educational system by basing it on the association of colors to material types. A focus group decided that the standard blue would signify the collection of recyclable containers, and brown would be readily associated with the natural color of fibers. We are concerned about the color requirement impacts on Berkeley's dual-stream recycling program. We prefer to maintain the simplest method for our residents to identify the correct side of their dual stream container to utilize for their recyclables. Changing it to an alternate color would confuse residents at a time when we have reached a good balance point from our education and outreach strategy.	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
6241	Maher, D., Ecology Center	<b>The Ecology Center opposes the utilization of brown colored lids to signify food scrap collection only.</b> In the city of Berkeley, food scraps are collected commingled with yard debris and trimmings. There is no foreseeable need to introduce a third colored lid when in fact these materials coexist in the same material stream. One suggestion could be to mandate consistent container body colors, but allow greater flexibility in regards to lid colors, especially for programs with split carts.	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. 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. 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. A jurisdiction’s designee can place labels on the containers.

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			<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>
1015	Malan, Justin, CAEHA	Section 18981.2 Implementation Requirement on Jurisdiction (b) (2): The term <del>“environmental health departments”</del> is used in context and should be changed to <b>“environmental health agencies”</b> . Several of the agencies are not structured as a department and located within a Health Department and/or other agency.	Comment noted. The term is used as an example of what a public entity is. The examples of public entities is meant to provide guidance but the list is not exclusive.
1016	Malan, Justin, CAEHA	Section 18982(a) 18: <b>Restore language deleted from the January draft or cross reference definition in AB 1219 (Eggman) to provide clarity in definition of edible food.</b>	<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</p>

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			<p>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.</p> <p>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.</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>
1017	<p>Malan, Justin, CAEHA  Phillippe, Jason,  Department of Public Health  Division of Environmental Health Services  Land Use Protection/Mosquito and Vector Control,  Prinz, William, City of San Diego Local Enforcement Agency  Sloan, Lisa, Santa Barbara County Loc</p>	<p>Section 18083(c) , Article 2.2 LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities</p> <p>a. The LEA is required to perform inspections for sites that are unpermitted, creating obstacles as to the LEAs legal authority to access a site to perform an inspection. Creating a permit tier for these sites (EA Notification, Registration) with an applicable definition of the LEAs duties would define the site, scope, inspection frequency and permit access for inspections. Creating a permit tier would allow for the LEA to conduct all aspects of the program, which include permitting, inspection and enforcement.</p> <p>b. The requirement to conduct inspections at an unpermitted site is unfunded and does not provide for a funding mechanism that would be compliant with Prop 26. Defining a permit tier provides a mechanism to fund this mandate and recover associated costs and resources.</p> <p>c. The requirement to conduct land application inspections is linked to the LEA performance standards, creating a potential for negative performance evaluations based on an inability to meet this requirement.</p>	<p>CalRecycle has deleted Section 18083(c) in response to comments.</p>
1018	<p>Malan, Justin, CAEHA</p>	<p>Section 18083 (c), Article 2.2 LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities</p> <p>The term "statistically significant number" is not adequately defined. We suggest outlining a methodology for determining this number or defining the goal by percentage, min/max or etc.</p>	<p>CalRecycle has deleted Section 18083(c) in response to comments.</p>
1019	<p>Malan, Justin, CAEHA  Phillippe, Jason,  Department of Public Health  Division of Environmental Health Services</p>	<p>Section 17896.45 General Record Keeping and Reporting Requirements: There is a duplication of Section 17896.45 (h) in text. New section added should be marked as (j), which states that the EA will review operator records and periodically directly observe the measurement at a frequency to ensure the operator is performing such measurements.</p>	<p>CalRecycle has revised this section accordingly.</p> <p>The term "periodically" was used based on comments received from EAs during the 45-day comment period asking for flexibility of when to perform direct observations instead of the established frequency. The term "periodically" is modified by the phrase "at a frequency necessary to ensure that the operator is performing such measurements in a manner consistent with this section." This language was intentionally designed to provide the EA discretion and</p>

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	Land Use Protection/Mosquito and Vec	<b>“Periodically” is not adequately defined and we suggest further definition and/or methodology to determine expected frequency. This language also occurs in text for Sections 17409.5 and 17869.</b>	flexibility depending on the unique circumstances of each jurisdiction and the facilities and operations therein.
4277	Malik, A., LA County Sanitation Districts	the Sanitation Districts recommend that CalRecycle provide an alternative performance based approach throughout the regulations that allows jurisdictions to develop their own programs and approaches to meet the diversion goals, subject to reporting and oversight, similar to the way that AB 939 was originally implemented. It is important 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. Commenter is not requesting a change.
4278	Malik, A., LA County Sanitation Districts	(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. <b>Solid waste materials originated from fossil fuels, such as plastics, are not considered organic waste.</b> Discussion - As CalRecycle indicated during the June 18, 2019 public workshop, CalRecycle does not intend to include plastics in the definition of organic waste in SB 13 83 regulations. The existing definition of organic waste is extremely broad and may result in the inclusion of plastics that do not fit into the concept of organic waste collection and processing. Consequently, <b>the Sanitation Districts request CalRecycle specifically exempt fossil fuel derived materials from the definition of organic waste to avoid confusion.</b>	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. 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.
4279	Malik, A., LA County Sanitation Districts	Section 18983.1 We recommend the following modification: a) The following dispositions of 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. (A) The use of non-organic material as landfill cover shall not constitute disposal of organic waste. <b>(B) The use of material recovery fines used as approved alternative cover material</b> <del>If as a part of the approval process pursuant to Section 20690 or 20700 of Title 27 Division 2, the operator demonstrates that approved material recovery fines that will be used for cover material do not include organic waste, the use of material recovery fines shall not constitute disposal of organic waste.</del> Discussion - Section (a)(2)(B) implies that any amount of organic waste in MRF fines used as alternative daily cover would result in classification of the entire cover material as landfill disposal. It is not technically feasible to remove all organic material from MRF fines nor is it feasible to sort or characterize MRF fines to remove or determine the organic fraction. Therefore, CalRecycle should amend the regulations to reflect that the use of MRF fines as ADC is not considered disposal, acknowledging that the MRF fines may contain a small amount of organic material	CalRecycle determined it was infeasible to make the suggested change because of the difficulty in determining the amount of organic versus non-organic material in MRF fines in any given situation.



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4280	Malik, A., LA County Sanitation Districts	<p>that is infeasible to remove. Otherwise, the proposed regulations will make the use of MRF fines as ADC impractical to implement.</p> <p>SECTION 18990.1 ORGANIC WASTE RECOVERY STANDARDS AND POLICIES  We recommend the following modification:  (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:  (1) Prohibit the <del>lawful</del> processing and recovery of organic waste through a <b>method conducted in accordance with applicable federal and state laws</b> or identified in Article 2 of this chapter</p> <p>Discussion - The Sanitation Districts are concerned about CalRecycle's assertion during a public workshop on June 18, 2019, that the SB 1383 regulations are not intended to preclude local jurisdictions from adopting more restrictive ordinances for the land application of biosolids over health and safety concerns. Existing state and federal regulations already adequately address health and safety concerns. The USEPA has conducted risk assessments, published technical support documents, and issued comprehensive regulations which are reviewed every two years under the Clean Water Act to ensure the land application of biosolids protects public health and the environment. The California State Water Quality Control Board has developed a Programmatic Environmental Impact Report and a statewide General Order to ensure the safety of the land application of biosolids. However, numerous local ordinances across the State have restricted or banned the land application of biosolids, and often these restrictions lack a firm basis in science or actual health and safety concerns. Restrictive ordinances have resulted in more biosolids being sent to landfills or out-of-state sites, thus increasing greenhouse gas emissions from transportation, and effectively acting counter to State goals, such as the Healthy Soil Initiative. This initiative seeks to restore soil health, sequester carbon, and reduce greenhouse gas emissions, and biosolids use is a key mechanism for meeting these goals. <b>We therefore urge CalRecycle to make clear in Article 9 Section 18990.1 (b)(1) that recycling activities conducted in accordance with applicable federal and state laws should not be locally restricted or prohibited.</b></p>	<p>It is not CalRecycle's intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b)(1) now reads: "(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:  (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter."</p>
4281	Malik, A., LA County Sanitation Districts	<p>SECTION 18993.1 RECOVERED ORGANIC WASTE PRODUCT PROCUREMENT TARGET  We recommend the following modification:  (f) For the purposes of this article, the recovered organic waste products that a jurisdiction may procure to comply with this article are:  (1) Compost, subject to any applicable limitations of Public Contract Code Section 22150, that is produced at:  (A) A Compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this Division; or  (B) A Large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that composts on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</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. 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>

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		<p>(2) Renewable gas used for fuel for transportation, electricity, heating applications, or pipeline injection,  (3) Electricity from biomass conversion; <b>and</b>  <b>(4) Other recovered organic waste products that are approved by CalRecycle in conjunction with the California Air Resource Board (CARB) and the California Energy Commission.</b></p> <p>Discussion - Although modified, Article 12 Section 18993.1(f), which defines the recovered organic waste products that a jurisdiction may procure to comply with the article, remains overly restrictive and still does not allow sufficient flexibility for new organic waste products to enter and compete on the market, such as biochar or pelletized organic waste fertilizers. We thank CalRecycle for expanding this list to include an additional product eligible for meeting the procurement requirements (Item [3], electricity from biomass conversion); however, biosolids products that meet the land application requirements of 40 CFR part 503 should also be eligible for satisfying these procurement requirements. We urge CalRecycle to consider additional organic waste products to satisfy the requirements of Article 12 Section 18993.1, such as biochar, and adding flexibility to the list to include potential addition of more products.</p>	
4282	Malik, A., LA County Sanitation Districts	<p>TITLE 14 NATURAL RESOURCES - DIVISION 7. DEPARTMENT OF RESOURCES  RECYCLING AND RECOVERY  ARTICLE 6.2 OPERATING STANDARDS  SECTIONS 17409.5.2, 17409.5.3, 17409.5.4, &amp; 17409.5.5 MEASURING ORGANICWASTE  SECTION 17409.5.7 GRAY CONTAINER WASTE EVALUATIONS  -and-  TITLE 27 ENVIRONMENTAL PROTECTION - Division 2. SOLID WASTE  ARTICLE 4 CALRECYCLE - CONTROLS  SECTION 20901 GRAY CONTAINER WASTE EVALUATIONS</p> <p>Discussion - The number of samples required and the quarterly frequency as required within these Sections would require a significant increase in personnel and equipment operating on already congested MRF and landfill facility tipping and sorting areas. In addition to significantly increasing operating costs and reducing the ability of facilities to use the limited floor space to maximize recovery operations, the increased congestion will result in safety concerns as additional staff will be working in close proximity to heavy equipment and customer traffic. Cordoning off a separate area for sampling operations is typically not feasible. Most MRFs do not have additional open space available and landfills are required to minimize the refuse tipping areas to reduce litter, odors, vectors, and allow sufficient time to cover all refuse before the end of operating hours as required by CalRecycle regulations.</p> <p><b>The Sanitation Districts therefore strongly recommend reducing the sampling frequency to once per year.</b> More frequent sampling may be conducted at the</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>

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		<p>request of CalRecycle if needed for review of diversion data for specific jurisdictions. At a minimum, the regulations should include alternatives that allow the operator, with approval of the LEA, to reduce the sampling frequency from quarterly to annually. Over time, the facility will receive fairly consistent types of waste from similar sources. Statistically, it will not be necessary to perform more samples than would be required to collect representative data.</p>	
4283	Malik, A., LA County Sanitation Districts	<p>SECTION 21695 CALRECYCLE-ORGANIC DISPOSAL REDUCTION STATUS IMPACT REPORT</p> <p>We recommend the following modification:</p> <p><del>(i) Operators of landfills where the SIR indicates use of intermediate cover in any area for 12 months or more shall conduct a study that evaluates the effectiveness of the existing and/or planned intermediate cover relative to the effectiveness of the proposed final cover delineated in the most recently approved closure plan submitted pursuant to 27 CCR, Section 21865 in meeting the requirements of 27 CCR Section 20921.</del></p> <p>Discussion - The new requirements within this Section to demonstrate that intermediate cover is equivalent to final cover in regards to its ability to comply with landfill gas monitoring and control requirements 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.</p> <p>Highly regulated landfills in California have significant control of landfill gas emissions (e.g., methane). In development of the California Methane Reduction Regulation, which was based on SCAQMD Rule 1150.1 CARB assumed that implementation of the regulation would bring landfill gas collection efficiency to approximately 85 percent (it was later reduced). Studies conducted by the Districts utilizing actual flux chamber measurements and custom modeling have demonstrated collection efficiency at Districts' landfills ranging from 91 to over 99 percent, with most typically over 95 percent. Other studies throughout the industry have also indicated that landfills achieve very high landfill gas capture rates. In fact, the U.S. Environmental Protection Agency (EPA) in developing their GHG inventory program allows landfills to take credit for up to 95 percent collection efficiency. Since the aforementioned regulations are already in place to protect the environment and public health as well as ensure compliance with landfill gas monitoring and control requirements, imposition of additional requirements would increase costs to rate-payers without any commensurate benefit.</p>	CalRecycle has deleted Section 21695(i) in response to comments.
4506	Martin, American Refuse	1) Page 40; lines 19-24; Section 18988.3 (4) - Strike out of Self Hauler Reporting.	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

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		<p><b>We would highly encourage this strike out be added back in.</b> Please look into the category of landscapers/gardeners as they move green waste throughout the county and from many jurisdictions. An obvious source of organics materials which need to be accounted for by jurisdiction. Self-hauling is rampant in our area. As an example, gardeners haul from different small towns Wasco, Shafter, Bakersfield. IF they take it to the compost facility and do not have to report it, jurisdictions will lose this tonnage for their reporting. It is very important that the self-haulers are held just as accountable for their tonnages as a certified waste hauler is come reporting time. It is important to know where tonnages are coming from commercially and residential. Implementing a system where self-hauled material will be reported back to each jurisdiction that it came from. If self-haulers of organic materials are left unaccounted for, it will be a loss of organic tonnage and would most likely affect the yearly reporting to Cal Recycle on jurisdictions diversion from the landfill. Also page 33 Section 18988.1 self-hauling education and outreach. If we do not ask them to report in. How will we keep track of the self-haulers to educate them?</p>	<p>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> <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> <p>The definition of 'hauler' in Section 18982(a)(31) of these regulations refers to existing Title 14 Section 18815.2(32): 'Hauler' means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. 'Hauler' includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.</p> <p>As described, "organic maintenance services" would be landscapers which are self-haulers as they are the actual entity generating this waste.</p> <p>A change in language is not needed. It would be unnecessarily burdensome to require self-haulers to report, it is unclear why self-hauling from other jurisdictions would need to be determined.</p>
4507	Martin, American Refuse	<b>Page 41 line 8 please re-instate.</b>	<p>The definition of 'hauler' in Section 18982(a)(31) of these regulations refers to existing Title 14 Section 18815.2(32): 'Hauler' means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. 'Hauler' includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.</p> <p>As described, "organic maintenance services" would be landscapers which are self-haulers as they are the actual entity generating this waste. A change in language is not needed. It would be unnecessarily burdensome to require self-haulers to report, it is unclear why self-hauling from other jurisdictions would need to be determined.</p>
4508	Martin, American Refuse	Page 141 Section 18815.4 lines 33-35. <b>Please change to reporting of self hauled material by jurisdiction.</b>	Comment is not germane to the proposed regulatory text.
4509	Martin, American Refuse	Section 18984.4; page 24 lines 17-29	Comment noted. The regulations are proposed for adoption two years prior to their effective date, providing CalRecycle time to educate jurisdictions and other regulated entities.

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		<p>Section 2 (A) Is there another possible to outcome to notification to all customers on the sampled route. The current way seems that it would</p> <ol style="list-style-type: none"> <li>1) Generate more waste, resources, and money to mail notifications to all generators on the contaminated route. <ol style="list-style-type: none"> <li>a. Could robo calls, emails, website data or something creating less waste be implemented?</li> <li>b. Cart tagging or flipping lids along the route is also beneficial in finding generators that contaminate. Can we add this along with item B but not the entire route? Possibly a reduced section amongst the contaminated route? Leaving notices on all carts is quite costly.</li> </ol> </li> <li>2) Of those people on the route it is not targeting the generator whom contaminates.</li> <li>3) As an educational piece, it seems that it blankets the majority of people at a high cost but does not fix the problem in a matter that will not continue to be a waste of resources, time, and money. In our experience the ones who contaminate will probably not read the letter anyways. Most of the time cart tagging with fines is what promotes a change in behavior.</li> </ol>	
4510	Martin, American Refuse	<p>Page 27 Section 18984.10 Thank you for the addition of lines 32 and 33. However, can we please ask that they report this to the hauler, city, jurisdiction, or Department? The way it is currently written how will the Department know this is being done by business owners? Education in all of these areas is very important to entry of these premises for cleanliness in recycling but also when tenants exit the premises (exit for proper placement of bulky items so they are not illegally dumped). This is especially important in the high turn over of MFD units.</p>	<p>There is no requirement that jurisdictions report to CalRecycle regarding a business or property owner's education activities, nor is there a requirement for the business/property owner to report to the jurisdiction about education activities. This approach was selected as the least costly and burdensome one that still achieves the organics disposal reductions. If the jurisdiction finds out that a business/property owner is not providing the required education, then the jurisdiction has the ability to begin an enforcement action.</p>
4511	Martin, American Refuse	<p>Page 36 - 37 Section 18986.2 Thank you for the new inputs to local Education agencies. We commend you for implementing this into educational institutions. If we could please request that local educational institutions please report all requirements to the local hauler, city, jurisdiction or the Department so it is known that all of these protocols are being met on a regular basis.</p>	<p>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.</p>
4512	Martin, American Refuse	<p>Page 29 Section 18984.12 lines 40-44 Thank you for including elevation waivers, is it possible to add language about the elevation being the highest point on the route for pick up? As an example, we have some routes that reach high elevations in route to the pickup but the actual pick up area is in a valley making it a lower elevation then what is stated in the regulatory text. Higher elevation pick ups can include icy conditions that are unsafe for the truck and driver to pass over. Most of these higher elevations include dangerous curves and cliffs as well.</p>	<p>The elevation waiver only exempts generators from collection and separating food waste and food soiled paper. Therefore, the waiver already is considerate of the feedstock. CalRecycle has clarified that an entire incorporated city must be located at or above 4,500 feet elevation. A census tract must be partially located at or above 4,500 feet elevation, if a portion of the tract is at 4,500 feet, the entire tract may be waived. The elevation waiver is intended to address the specific waste collection challenges that jurisdictions 4,500 feet and above face 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. Food waste separation and recycling would pose public safety issues that would be extremely costly for generators in those jurisdictions to mitigate. The elevation waiver is necessary to prevent those extreme costs as well as the potential threats to public safety. The</p>

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			<p>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>The elevation waiver is not intended to address the driving conditions of routes with varying elevations.</p>
4513	Martin, American Refuse	<p>Page 17 lines 32-35. <b>Hazardous wood waste does not go in green, gray or blue. Clarification on where this item goes.</b> It is also listed on 20 and page 36 lines 16-19</p>	<p>This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC.</p> <p>For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.</p>
4514	Martin, American Refuse	<p>Page 33 line 38. Can this be in a definition? What if they are bilingual? Do you still have to fall under the .5%? The statement of "English less than very well" causes some confusion on what exactly that definition means? Also noted on page 35 line 35</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>
4515	Martin, American Refuse	<p>Page 91 Section 18997.4 Noncompliance inventory. Could this have further explanation? Will fines be implemented for noncompliance of these agencies such as generators and cities will have. These facilities contribute to the overall number in the jurisdiction. Most of these facilities are large generators and would make a big impact on a jurisdiction's diversion numbers.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
6295	Martinson, C., California State Association of Counties	<p>We support the state's goal of reducing short-lived climate pollutants and meeting our greenhouse gas emissions targets, but we also support an approach that recognizes existing challenges to markets, the need for infrastructure and the potential impact the proposed regulation could have on organic waste generators and rate payers.</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>

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6296	Martinson, C., California State Association of Counties	We must reiterate our concern that the proposed regulations are a mandate on local jurisdictions; whereas, the authorizing statutes directed the state to adopt a program to achieve goals. It is our belief that SB 1383 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 have that effect.	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.
6297	Martinson, C., California State Association of Counties	<p>Exemptions -- The proposed regulations provide for two major types of exemptions; locally granted exemptions and state granted exemptions. The locally granted exemptions include waivers from organic waste collection for generating too little organic waste, not having enough space to put a collection service, and a request to reduce collection frequency. State based waivers from the regulations include low population exemptions for unincorporated areas with less than 75 people per square mile, a rural exemption based on a declaration of need by the county, and an exemption for communities above 4,500 feet in altitude. <b>CSAC proposes that local jurisdictions should simply be granted the ability to provide the low population waivers and elevation waivers.</b></p> <p>Local governments are in a better position to evaluate unique circumstances when it comes to compliance with these regulations. In some instances in census tract based populations, the tracts could geographically large, but also contain a small portion, likely near the edge of the census tract, that is population dense. In this type of situation the county is in a better position to grant waivers based on a better understanding of community needs and hauler routes. The elevation waiver is intended prevent the nuisance of animal consumption in communities near large populations of wildlife. This condition could happen at, above, or below 4,500 feet. This waiver would also be better granted at the local level, where counties and local communities have a better understanding of the natural environment and the potential community disruption that animals can cause than the state.</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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a> ); 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 &lt;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.</p>

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			<p>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. CalRecycle specifically based the waivers on thresholds that would provide regulatory relief to certain generators and communities without threatening the ability of the state to achieve the organic waste reduction targets. The Department analyzed the amount of organic waste exempted by all of the waivers in order to determine if the regulations could still facilitate the state achieving the organic waste diversion and greenhouse gas reduction goals established in SB 1383. The thresholds are at the maximum level they could be set at without compromising the targets. Increasing the thresholds or allowing them to be set at any level local governments deem appropriate, would allow for an unknowable amount of organic waste to be disposed. This would compromise the state's ability to achieve the statutory targets. See Comment 176</p>
6298	Martinson, C., California State Association of Counties	<p>Education &amp; Outreach -- Counties will be required to do specific outreach regarding organic waste collection service, generator compliance requirements, the benefits of methane reduction, methods to reduce organic waste, and programs for edible food donations. These materials may be provided through print or electronic media. In addition, the county must provide these materials to certain groups of non-English speaking generators that meet specified thresholds. California counties are linguistically diverse, and translating all educational materials into every language spoken may not be feasible to produce and may come at a significant cost. CSAC suggests that jurisdictions translation educational materials in the most commonly</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>



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		spoken languages of the jurisdiction and offer to provide outreach materials in other language upon request by residents and/or generators.	
6299	Martinson, C., California State Association of Counties	Route Checks & Contamination Inspections -- Local jurisdictions will be required to verify the contents of bins for contamination or presence of organic waste on an annual basis. Counties may verify contamination using either a route inspection method or waste characterization sample method. Generators are required to receive written notice if contamination is found using either of the two prescribed methods. CSAC appreciates the reduction of these contamination checks to annual basis instead of quarterly; however, we remain concerned that the prescribed method of performing the waste characterization sample will be burdensome and unwieldy in facilities with limited space.	CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.
6300	Martinson, C., California State Association of Counties	Capacity Planning— Under Article 11 of these proposed regulations, counties will be required to issue a report to Cal Recycle on the development of both organic waste processing and edible food recovery capacity for all of the local jurisdictions within the county. In addition, if the county determines that more capacity is needed, it must notify local jurisdictions contributing to this lack capacity to submit a detailed implementation plan to Cal Recycle in order meet the county needs. The regulations state that jurisdictions shall conduct community outreach regarding locations being considered for new or expanded facilities. The proposed language is unclear as to which jurisdiction shall conduct outreach, whether it is the city or the county, and is not specific to jurisdictional boundaries. <b>CSAC recommends that the responsibility of community outreach 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.</b>	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.
6301	Martinson, C., California State Association of Counties	In addition, <b>CSAC recommends that the proposed regulations 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.</b>	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.
6302	Martinson, C., California State Association of Counties	Procurement— CSAC supports greater flexibility in reaching procurement goals as provided for in the most recent regulations. We appreciate the expansion of procurement options under Article 12 and consider those changes as a step in the right direction.	Thank you for your comment.
6303	Martinson, C., California State Association of Counties	Our consistent message and main point throughout this process has been the need for sufficient infrastructure to manage this portion of the waste stream. California has added roughly 13 active anaerobic digestion (AD) facilities and 169 active composting facilities in the past 20 years. At least 135 to 150 new facilities must be financed, sited, permitted, and built in the next nine years to achieve the target of 75% organics diversion by 2025. To meet these goals, California will need upwards of \$3 billion in capital investment. Cap and Trade funding has provided limited	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

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		resources to make process towards the significant resources needed to site and permit facilities. We firmly believe that capacity is a statewide conversation that is tied to resources and requires the participation of all stakeholders. 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 organics infrastructure and associated funding in California.	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.
6214	Mathews, R., Salinas Valley Solid Waste Authority	Procurement, Article 12, Section 18993.1 <b>We request the addition of non-composted mulch and wood chips to meet the “Organic Waste Procurement Target”.</b> Our extensive organics recovery and processing system markets substantial amounts of non-composted wood chips and course erosion control mulches to various industries and jurisdictions for landscaping and soil stabilization projects. Exclusion of this specific, historically marketed material from the procurement compliance list is problematic. Jurisdictions utilize wood chips in landscaping applications and course mulches for soil stabilization projects. Requiring composting of these specific materials not only substantially increases local costs but alters the physical properties and renders these materials unacceptable for these specific purposes.	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
6169	McBain, R., City of Piedmont	Procurement: We strongly disagree with procurement targets for cities based on population and GDP because neither is related to the actual need for compost. The City of Piedmont would be required to procure nearly 900 tons of compost in any given year. We are a densely developed City with over 11,000 residents in 1.7 square miles and there is simply not enough demand for the City to procure that amount of compost on an annual basis. <b>We recommend that targets be based on previous year’s procurement and that the state allow the procurement of mulch to meet targets.</b>	The comment suggests basing the procurement target methodology on “actual need for compost” but lacks specific language for quantifying that approach. Further, the comment seems to misinterpret the procurement requirement as limited to compost, when in fact, there are multiple options for procuring different products based on a jurisdiction’s local need. 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. The comment seems to misinterpret the procurement target as the tons of compost required to procure. The procurement target is measured in tons of raw organic waste feedstock. The draft regulations provide conversion factors in Section 18993.1(1) to convert from tons of raw feedstock to amount of finished product. In this case, population (11,000) should be multiplied by the per capita procurement target (0.08), which equals 880 tons of raw organic waste feedstock. To convert to tons of compost, multiply 880 tons by the compost conversion factor (0.58), which equals 510 tons of compost, not 900 tons as stated in the comment. After the rulemaking is finalized, CalRecycle will provide tools and support for jurisdictions in calculating their procurement targets. 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.

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6170	McBain, R., City of Piedmont	<p>The use of renewable gas contradicts City and State goals to reduce greenhouse emissions. Cities should be focused on electrification and not converting fleets to renewable gas to meet procurement goals. They should not be corned into one technology to meet goals put forward by CalRecycle.</p>	<p>CalRecycle disagrees that RNG procurement are 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 states that “procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68).” The following excerpts from the 2017 Scoping Plan additionally outline how renewable natural gas is viewed as necessary to reduce the state’s greenhouse gas emissions: • Organic matter can ... provide a clean, renewable energy source in the form of bioenergy, biofuels, or renewable natural gas (CARB 2017: ES12). • Moving forward, reducing use of fossil natural gas wherever possible will be critical to achieving the State’s long-term climate goals. For end uses that must continue to rely on natural gas, renewable natural gas could play an important role. Renewable natural gas volume has been increasing from approximately 1.5 million diesel gallon equivalent (dge) in 2011 to more than 68.5 million dge in 2015, and continued substitution of renewable gas for fossil natural gas would help California reduce its dependence on fossil fuels. In addition, renewable gas can be sourced by in-vessel waste digestion (e.g., anaerobic digestion of food and other organics) and recovering methane from landfills, livestock operations, and wastewater treatment facilities through the use of existing technologies, thereby also reducing methane emissions. The capture and productive use of renewable methane from these and other sources is consistent with requirements of SB 1383 (CARB 2017: 66). • Production and use of bioenergy in the form of biofuels and renewable natural gas has the potential to reduce dependency on fossil fuels for the transportation sector (CARB 2017: 89). 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. This text is reproduced as follows. Section 39730.8... (b) The energy commission, in consultation with the state board and the commission, shall develop recommendations for the development and use of renewable gas, including biomethane and biogas, as a part of its 2017 Integrated Energy Policy Report prepared pursuant to Section 25302 of the Public Resources Code. In developing the recommendations, the energy commission shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas, including biomethane and biogas, and their interactions with state policies, including biomethane and all of the following: (1) The Renewables Portfolio Standard program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code); (2) The Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations); (3) Waste diversion goals established pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code. (4) The market-based compliance mechanism developed pursuant to Part 5 (commencing</p>

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			<p>with Section 38570) of Division 25.5; (5) The [Short-lived Climate Pollutant] strategy; (c) Based on the recommendations developed pursuant to subdivision (b), and to meet the state’s climate change, renewable energy, low-carbon fuel, and short-lived climate pollutants goals, including black carbon, landfill diversion, and dairy methane targets identified in the strategy, state agencies shall consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, including biomethane and biogas; (d) Based on the recommendations developed pursuant to subdivision (b), the commission, in consultation with the energy commission and the state board, shall consider additional policies to support the development and use in the state of renewable gas, including biomethane and biogas, that reduce short-lived climate pollutants in the state...” Sections 39730.6 and 39730.8 of the Health and Safety Code were adopted concurrently with Section 42652.5 of the PRC as a part of SB 1383. In compliance with the statute, CalRecycle (a state agency) considered the recommendations of the IEPR, and as appropriate is proposing to adopt regulations that require the procurement of recovered organic waste products including renewable natural gas. With respect to a potential conflict with other state energy policies, such as those adopted by the California Public Utilities Commission (CPUC), and a push for electrification via solar and other renewables rather than use renewable natural gas, The CPUC consulted on the development of the 2017 IEPR, which per statute required the adoption of recommendations to increase the use of renewable natural gas in light of certain policies, included the renewables portfolio standard, the organic waste reduction targets, the low carbon fuel standard, and other environmental mandates. The regulations were specifically crafted, in consultation with CARB and CEC, to ensure that the policy does not discourage electrification or use of other alternative technologies. First, the procurement requirements applied to cities and counties do not specifically require the procurement and use of renewable natural gas. The procurement requirements specify that cities and counties must procure a certain amount of organic waste in the form of recovered organic waste products, of which one product is renewable natural gas when it is used for transportation, electricity, or heating. Second, jurisdictions capable of reducing or eliminating their use of fossil gas entirely could correspondingly reduce or eliminate its procurement obligation under the regulation. 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>
6180	McBain, R., City of Piedmont	Reporting: The amount of staff time that would be required to document all the detailed aspects of the law takes away jurisdictional resources that could be used to educate and enforce the generator and hauler requirements. <b>The City requests that</b>	This comment is not germane to changes made to the regulations in the 15-day comment period. Reporting requirements were existing in the initial regulatory text released during the 45 day comment period.

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		<p><b>CalRecycle reduce the number of reporting requirements and types of information required to what is necessary to determine compliance.</b> It seems that the submission of greenhouse gas inventories would be the best way to measure success.</p>	
6100	McCoy, R., City of Thousand Oaks	<p>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.</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>
6101	McCoy, R., City of Thousand Oaks	<p>Infrastructure Barriers: In some cases, significant permitting barriers exist that are exacerbated by a lack of coordination between agencies. Challenges, such as restrictions on new groundwater wells, which are necessary for new open-air composting facilities, and restrictive requirements for air pollution permits on open air composting (even when simply moving organic waste emissions from landfills to adjacent composting) make permitting new facilities onerous. State agencies (DWR, CARB, CalRecycle) should work together to provide a framework that encourages and supports development of new processing facilities and helps to remove permitting barriers.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>
4428	Melton, County of Ventura	<p>In Ventura County, 80.5% of our diesel fuel usage is for public safety vehicles, including police, fire, and public works. Given the nature of public safety, technologies must be proven to respond to all emergency scenarios prior to implementation. I have concerns about the use of RNG as a fuel for public safety vehicles for the following reasons:  Fuel supply – these vehicles must have an uninterrupted supply of fuel in all feasible disaster scenarios. Earthquakes can cause massive disruptions to a gaseous fuel supply. If public safety diesel engines are required to convert to gaseous RNG engines, I could not state with confidence that those vehicles will be available in a disaster. My previous job as the Fleet Manager for New Orleans, LA has taught me the criticality of fuel supply during emergency operations. I have not seen any</p>	<p>CalRecycle disagrees with the comment’s interpretation that the draft regulations mandate the use of renewable transportation fuel in all emergency response vehicles. That is not the case. The draft regulations provide flexibility for jurisdictions in choosing the recovered organic waste product(s) that best fit local needs. Nothing in the draft regulations mandate renewable transportation fuel must be used for emergency response vehicles. A jurisdiction may choose to procure renewable transportation fuel and use it in other vehicles, or may choose to procure other products altogether.</p>

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		<p>information in the proposed document that highlights provisions for emergency vehicles and emergency vehicle fuel supplies if required to convert to gaseous fuel. Additionally, in Ventura County we do not have a fueling station within our County boundaries, thereby requiring our County to fund a massive infrastructure project to achieve compliance for use of gaseous RNG in transportation.</p> <p>Vehicle safety – CNG and LNG are more volatile than liquid diesel, thereby increasing an explosion risk for a gaseous fueled vehicle. This is critical to understand when looking at the best fuel to use in a fire response vehicle. As of today, liquid diesel fuel is the most stable fuel for high temperature environments that are seen by our fire and public works vehicles that respond to fires.</p> <p>My recommendation is to include exemptions for public safety and emergency response vehicles from requirements relating to transportation fuel.</p>	
4429	Melton, County of Ventura	<p>Pursuing Green Power and Vehicle Electrification:</p> <p>In Ventura County, our direction is to move away from burning hydrocarbons as a fuel supply. This is being achieved by procuring 100% renewable grid power for all County facilities and by electrifying fleet vehicles where we can. If we cannot use gaseous RNG as a fuel supply due to the public safety constraints listed above, our options then become to purchase vast amounts of compost or to burn RNG to create electricity. As a 100% green power County that only uses liquid diesel for public safety vehicles and cannot consume the amount of compost required by SB 1383, we could be mandated by this bill to generate “dirty” electricity to remain in compliance.</p> <p><b>My recommendation is to exempt Counties that procure clean electricity from the biomass provision on clean electricity. I also recommend exempting Counties from the transportation fuel provisions that have a pre-defined % of fleet vehicles that are electric vehicles.</b></p>	<p>CalRecycle disagrees that RNG procurement are 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 states that “procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68).” The following excerpts from the 2017 Scoping Plan additionally outline how renewable natural gas is viewed as necessary to reduce the state’s greenhouse gas emissions:</p> <ul style="list-style-type: none"> <li>• Organic matter can ... provide a clean, renewable energy source in the form of bioenergy, biofuels, or renewable natural gas (CARB 2017: ES12).</li> <li>• Moving forward, reducing use of fossil natural gas wherever possible will be critical to achieving the State’s long-term climate goals. For end uses that must continue to rely on natural gas, renewable natural gas could play an important role. Renewable natural gas volume has been increasing from approximately 1.5 million diesel gallon equivalent (dge) in 2011 to more than 68.5 million dge in 2015, and continued substitution of renewable gas for fossil natural gas would help California reduce its dependence on fossil fuels. In addition, renewable gas can be sourced by in-vessel waste digestion (e.g., anaerobic digestion of food and other organics) and recovering methane from landfills, livestock operations, and wastewater treatment facilities through the use of existing technologies, thereby also reducing methane emissions. The capture and productive use of renewable methane from these and other sources is consistent with requirements of SB 1383 (CARB 2017: 66).</li> <li>• Production and use of bioenergy in the form of biofuels and renewable natural gas has the potential to reduce dependency on fossil fuels for the transportation sector (CARB 2017: 89). 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</li> </ul>

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			<p>with the Public Utilities Commission and the California Air Resources Board. This text is reproduced as follows.</p> <p>Section 39730.8... (b) The energy commission, in consultation with the state board and the commission, shall develop recommendations for the development and use of renewable gas, including biomethane and biogas, as a part of its 2017 Integrated Energy Policy Report prepared pursuant to Section 25302 of the Public Resources Code. In developing the recommendations, the energy commission shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas, including biomethane and biogas, and their interactions with state policies, including biomethane and all of the following:</p> <ol style="list-style-type: none"> <li>(1) The Renewables Portfolio Standard program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).</li> <li>(2) The Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations).</li> <li>(3) Waste diversion goals established pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code.</li> <li>(4) The market-based compliance mechanism developed pursuant to Part 5 (commencing with Section 38570) of Division 25.5.</li> <li>(5) The [Short-lived Climate Pollutant] strategy.</li> </ol> <p>(c) Based on the recommendations developed pursuant to subdivision (b), and to meet the state's climate change, renewable energy, low-carbon fuel, and short-lived climate pollutants goals, including black carbon, landfill diversion, and dairy methane targets identified in the strategy, state agencies shall consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, including biomethane and biogas.</p> <p>(d) Based on the recommendations developed pursuant to subdivision (b), the commission, in consultation with the energy commission and the state board, shall consider additional policies to support the development and use in the state of renewable gas, including biomethane and biogas, that reduce short-lived climate pollutants in the state..." [Emphasis added]</p> <p>Sections 39730.6 and 39730.8 of the Health and Safety Code were adopted concurrently with Section 42652.5 of the PRC as a part of SB 1383. In compliance with the statute, CalRecycle (a state agency) considered the recommendations of the IEPR, and as appropriate is proposing to adopt regulations that require the procurement of recovered organic waste products including renewable natural gas.</p>
4430	Melton, County of Ventura	<p>Cost to retrofit fueling stations and vehicles:  The cost to retrofit our PWA and Fire facilities to RNG will be in the tens of millions of dollars. The costs to retrofit our vehicles will also be in the tens of millions of dollars. I have not seen any information relating to funding to help municipalities and counties to pay for these expensive retrofits. These retrofits also take time, for which I am uncertain we could meet the timelines put forth in this proposed legislation. Also, as large diesel vehicles are on 15+ year replacement cycles, we could be mandated to replace clean diesel vehicles that have just been purchased.</p>	<p>The draft regulations do not mandate vehicle retrofits, rather they are designed to provide flexibility for jurisdictions in choosing the recovered organic waste product(s) that best fit local needs. Nothing in the draft regulations mandate vehicle retrofits to utilize renewable transportation fuel. A jurisdiction may choose to procure renewable transportation fuel, or may choose to procure other products altogether. Since there is no mandate to retrofit or replace vehicles, there is no corresponding increase in state funding for retrofits associated with these regulations.</p>

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		<p>Has the issue of funding for infrastructure retrofit projects to adhere to the gaseous transportation fuel been looked at? If not this could become a large unfunded mandate for all counties that do not have existing infrastructure in place. My recommendation would be to make the enforcement provisions of this bill contingent upon state funding allocations related to fuel station retrofits and vehicle retrofits.</p>	
4269	Mitchell, T., Sacramento Regional Sanitation District	<p>We do not believe it is the intent of CalRecycle to classify biosolids that are kept on-site at POTWs as landfill disposal, and, thus, we request the following clarifications:  a. Article 2 Section 18983.1(a)(3) states that “Any other disposition not listed in subsection (b) of this section” constitutes “landfill disposal”. As currently written, these regulations imply that landfill disposal includes biosolids that are incinerated, thermally oxidized, or deposited in surface management sites at a wastewater treatment plant. We believe this is not the intent of CalRecycle and recommend the following language be deleted for the sake of accuracy and clarity:  <del>(3) Any other disposition not listed in subsection (b) of this section.</del></p>	<p>Biosolids which are incinerated, thermally oxidized, or deposited in a surface disposal site at a wastewater treatment plant will initially be considered as disposal per section 18983.1. 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<sub>2</sub>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.</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, Determination of Technologies That Constitute a Reduction in Landfill Disposal, 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> <p>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> <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<sub>2</sub>e 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 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>
4270	Mitchell, T., Sacramento Regional Sanitation District	<p>We do not believe it is the intent of CalRecycle to classify biosolids that are kept on-site at POTWs as landfill disposal, and, thus, we request the following clarifications:  b. 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”.</p>	<p>CalRecycle appreciates your comment. 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<sub>2</sub>e per short ton organic waste processed. Therefore, section 18983.1(b)(6(B) can only consider these technologies when the resulting products are</p>



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		<p>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)). <b>We request that CalRecycle clarify the scope of this definition.</b></p>	<p>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, Determination of Technologies That Constitute a Reduction in Landfill Disposal, 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> <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> <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<sub>2e</sub> 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 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>
4271	Mitchell, T., Sacramento Regional Sanitation District	<p>It is critical that the entire state be open for land application when done as regulated under the federal and state regulations. We therefore urge CalRecycle to maintain the language as currently set forth in Article 9 with the following clarifications:</p> <p>a. Article 9 Section 18990.1(b)(1) should make clear that recycling activities in accordance with applicable federal and state law cannot be restricted or prohibited in any way. We request that the section be revised as follows:</p> <p>(b) A jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provision that do any of the following:</p> <p>(1) Prohibit <b>or restrict</b> the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p> <p>b. Article 9 Section 18990.1(c)(3) seems inconsistent with the language in subsection 18990.1(a) and (b), which restricts local ordinances such that they may not impede organics recycling. Subsection (c)(3) seems to supersede that restriction. We</p>	<p>The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b)(1) now reads: "(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, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter."</p> <p>Section 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 section 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. Meanwhile, section 18990.1 (c) clarifies that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with section 40053 of the Public Resources Code. A revision to the regulatory text of section 18990.1 (c)(3) is not necessary.</p>

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		<p>request revision or deletion of this language to ensure an open market across California for organics recycling. Furthermore, as stated above, the language in subsection 18990.1 (a) and (b) must remain, with the edit proposed in comment 2.a. We suggest that Section 18990.1(c)(3) be deleted as follows:  (c) This section does not do any of the following:...</p> <p><del>(3) Supersede or otherwise affect: 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.</del></p>	
4272	Mitchell, T., Sacramento Regional Sanitation District	<p>3. Technologies for treating biosolids should not be limited.  Article 2 Section 18983.1(b)(6)(B)1. 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.</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 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 now or in the future.</p> <p>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 use 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.</p> <p>We strongly urge CalRecycle to revise Section 1893.1(b)(6)(B)1. as follows:  1. Have undergone <del>anaerobic digestion or composting</del> <b>one of the processes</b>, as defined in Part 503, Title 40...</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<sub>2</sub>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.</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> <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<sub>2</sub>e 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 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>
4273	Mitchell, T., Sacramento Regional Sanitation District	<p>Biosolids should be included in eligible recovered organic waste products.  Article 12 Section 18993.1(f) defines eligible recovered organic waste products that satisfy the procurement requirements of Subsection 18993.1(e). Subsection (f)(1) stipulates that compost is an eligible product. We assume this includes biosolids</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>

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		compost, but request explicit confirmation of that. Furthermore, there are many other biosolids products that 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. This includes use of biosolids for home use, on public parks and other property, golf courses, community gardens, etc.	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.
4274	Mitchell, T., Sacramento Regional Sanitation District	Additionally, in general, Regional San is supportive of the comments provided by the California Association of Sanitation Agencies. We appreciate the efforts of CalRecycle and staff in attempting to resolve these key issues and encourage you to continue to work with the POTW community to ensure that the implementation of the regulations is successful.	Comment noted. Commenter expressing appreciation for change.
4275	Nava, E. Castro Valley Sanitary District	<p>Proposed Language for Section 18984.3 (a) A jurisdiction may comply with the requirements of this article by providing a single gray container to each generator that allows for intentional comingling 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 <b>or processing facility</b>.</p> <p>Rationale: CVSan currently provided Garbage (gray) and Recycling (blue) collection services to an area of our jurisdiction known as the Canyonlands. CVSan could, potentially, allow collection of bagged organic material in the garbage container in the Canyonlands if required to by SB 1383. CVSan could potentially send this material collected from the Garbage container in the Canyonlands to our contracted hauler's processing facility. At the processing facility, the contracted hauler would remove the bagged organics and send that material to our contracted composting facility. The garbage material left behind would be send to the landfill. The bagged organics material arriving at the processing facility (from the Canyonlands garbage containers) would not be sorted through, it would only be separated from the garbage with which it was already comingled.</p> <p>Question: Does the bag count as a separate container when being used for collection in the garbage container as described in cell H5 (see comment 4276)?</p>	A bag is not considered a separate container.
4276	Nava, E. Castro Valley Sanitary District	Proposed Language for Section 18984.12 (a)(2) (2) A <del>county</del> jurisdiction may apply to the Department for a waiver from some or all of the 13 requirements of this article for census tracts located in unincorporated portions of the 14 county that have a population density of less than 7550 people per square mile. Rationale: This change would allow for special districts and other jurisdictions that provide solid waste services in unincorporated county areas to apply for a waiver. For example, Castro Valley Sanitary District provides service to an area meeting the population density criterion above, but is a special district.	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.
8054	Neff, Heather Elk Grove Recycling and Waste	Section (a)(28) – There appears to be a typographical error in the section. Should the reference to the green container in the second sentence instead reference the gray container?	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say 'gray' instead of 'green.'

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8055	Neff, Heather Elk Grove Recycling and Waste	Section 18984.1(a)(5)(B) – This section states that “Hazardous wood waste shall not be collected in the blue container or gray container”. Does this mean it can be placed in the green container? Is this an oversight, because it was our understanding that hazardous waste of any kind should not be placed in the green container. Is there another section of State Code restricting hazardous wood waste in the green container that should be referenced here?	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the ‘organic lumber’ is organic waste and will be subject to the recycling requirements in Article 3.
8056	Neff, Heather Elk Grove Recycling and Waste	Section 18984.5(b)(4)(A) – This section states that a designee can only dispose of a container with visible contaminants with the consent of the jurisdiction. Our City services approximately 20,000 containers per day, and other cities likely service many more. It seems inefficient to obtain a jurisdiction’s consent each time a container is contaminated. Can this consent be provided via a blanket authorization of some type? Please clarify.	CalRecycle has removed section 18984.5(b)(4)(A). The change is necessary to clarify that a hauler does not have to get approval on a case-by-case basis but rather can obtain prior consent from the jurisdiction for disposing of container with prohibited container contaminants.
8057	Neff, Heather Elk Grove Recycling and Waste	Section 18984.8(c) – <b>There is a typographical error in the spelling of “contaminants”.</b>	Thank you for the comment. CalRecycle changed ‘contaminants’ to the correct spelling.
8058	Neff, Heather Elk Grove Recycling and Waste	Section 18985.1(c) – The text of this section appears to change the requirements for compliance, can you please clarify the intent? Previously, it was clearly stated that jurisdictions may comply “through any of the following methods”. The new text reads “jurisdictions may comply with the requirements by”. Does this mean that jurisdictions must perform all of the following requirements or can compliance be achieved through one or more of the methods listed?	Thank you for the comment. This comment is in support of current language. The regulations require that a jurisdiction employ either print or electronic methods in order to comply with the education and outreach requirements. In addition to either of those two methods, the jurisdiction may conduct outreach through the direct contact methods specified: workshops, meetings or on-site visits.
8059	Neff, Heather Elk Grove Recycling and Waste	Section 18985.3(a)(5) – <b>There is a grammatical error in this sentence. Since the text states “...languages in which...” the additional word “in” at the end of the sentence is grammatically incorrect.</b>	Thank you for the comment. CalRecycle has since deleted the provision.
8060	Neff, Heather Elk Grove Recycling and Waste	Section 18991.3(b) – This section states that generators shall arrange to recover the “maximum amount” of edible food. Is this defined somewhere else in the draft regulations? CalRecycle’s definition of the maximum amount may be very different than that of the generator, even that of a jurisdiction. Please clarify.	The term “maximum” was added to the regulations to remove a potential loophole that could result in California not achieving its 20% edible food recovery goal. If the term maximum was not included, then a commercial edible food generator could potentially have a very small amount of their edible food that would otherwise be disposed be recovered and still be in compliance. To eliminate this potential loophole, the word “maximum” was added to the requirement. To clarify this requirement further, the expectation for commercial edible food generators is that they contract with or have a written agreement with food recovery organizations or food recovery services that are willing and capable of accepting their edible food to distribute for human consumption. Several key stakeholders asked questions regarding the expectation for compliance when a commercial edible food generator only has “unhealthy food” available to be recovered. If a commercial edible food generator only has food that is considered “unhealthy” available, then the commercial edible food generator must contract with a food recovery organization or a food recovery service that is willing to recover that type of food. For example, if a commercial edible food generator contracts with a food recovery organization that will recover all of the generator’s produce, but will not recover the generator’s baked goods, then the generator must contract with or have a written agreement with an additional food recovery organization or food recovery service that is willing to accept the generator’s baked goods. Commercial edible food generators

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			<p>are not exempt from compliance if they only have food that is considered “unhealthy” available for food recovery.</p> <p>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. As a result, some commercial edible food generators will be required to establish multiple contracts or written agreements to ensure that the maximum amount of their edible food that would otherwise be disposed, is recovered. This requirement is necessary for ensuring that California achieves the 20% edible food recovery goal established by SB 1383.</p>
8061	Neff, Heather Elk Grove Recycling and Waste	Section 18998.2(a)(1) – This section references collection requirements in Sections 19884.1, 19884.2, and 19884.3. Should these references instead be 18984.1, 18984.2, and 18984.3?	Thank you for your comment, the error was corrected.
8062	Neff, Heather Elk Grove Recycling and Waste	Section 18998.2(a)(1) – Later in this section, it states that jurisdiction shall not be subject to the waivers and exemptions requirements in Section 18984.11. Please clarify whether this mean that jurisdictions shall not be able to issue waivers and exemptions or is the intent just to remove the requirement to do the regular verifications of waivers and exemptions.	A jurisdiction implementing a performance-based source separated organic waste collection service may exempt 10 percent of commercial and 10 percent of residential generators from the requirement to have a source separated organic waste collection service. A jurisdiction implementing a performance-based source separated organic waste collection service is not required to issue waivers in order to exempt these generators.
8063	Neff, Heather Elk Grove Recycling and Waste	Section 18998.4(d)(3) and (4) – <b>Please check the references in these two sections. It appears as though Subsection (3) should be referencing 18995.2(f)(8)-(10) rather than 18995.2(f)(8)-(9) and Subsection (4) should be referencing 18995.2(f)(11)-(13) rather than 18995.2(f)(10)-(13).</b>	Thank you for your comment, the error was corrected.
8064	Neff, Heather Elk Grove Recycling and Waste	Section 17409.5.7 Gray Container Waste Evaluations – The number and frequency of gray container waste evaluations required by this section are overly prescriptive and unnecessary. Even in large jurisdictions, taking one diverse sample per quarter would be sufficient to determine the ratio of organic material. Requiring operators to perform these analyses as much as 5 times per quarter is punitive. Requiring workers to perform these evaluations up to 20 times per year (per jurisdiction) will require operators to hire an employee whose sole job is to dig through trash and risk constant exposure to all of the hazards that are associated with waste. The cost impact of these evaluations is significant and will be passed on to customers already faced with significant increases related to this legislation. The City of Elk Grove respectfully requests CalRecycle to consider less frequent audits or a reduced number of audits. After the initial implementation of the requirements, annual audits would be sufficient to determine the amount of remnant organic material.	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>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>
8065	Neff, Heather Elk Grove Recycling and Waste	Section 17409.5.7.2(a)(3) – This section requires that the weight of the remnant organic material identified in Subsection (a)(2) from the sample described in Subsection (a)(1) be divided by 200 pounds to obtain the ratio or remnant organic material. Subsection (a)(1) requires the sample to be “at least” 200 pounds. It may be next to impossible to get a sample that weighs exactly 200 pounds so if the sample is larger, the results will be skewed and may not achieve the desire results. We suggest you change the denominator in this equation to be equal to the original	CalRecycle has revised the section accordingly.

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		sample weight or place limits upon the numerator (e.g. at least 200 pounds but no more than 250 pounds).	
6316	Nelson, B., City of Santa Cruz	Article 12 Procurement of Recovered Organic Waste Products, Section 18993.1.1(f): Article 1 Definitions Section 18982 (a)(10) references Section 17896(a)(4) which is “controlled biological decomposition of organic solid wastes” this terminology would eliminate both mulch and wood chip products that our facility is successfully marketing both to the public and other City departments, such as our Parks Department. Is it really the intent of this section to eliminate those items as Recovered Organic Waste Product Procurement Targets?	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
6317	Nelson, B., City of Santa Cruz	Article 17 Performance Based Source Separated Organic Waste Collection Service and the corresponding Section 17409.5.7 Gray Container Waste Evaluations: In a permitted disposal facility that also does organics separation, could an independently performed Waste Characterization Study also be used to determine Performance based compliance. If the amount of disposed organics still in the waste stream is less than 25%, wouldn't that also indicate a 75% organics recovery?	No. This comment assumes that the recovery efficiency standards established in Article 17 are equivalent to an overall jurisdiction diversion target. They are not, as such a requirement is precluded by the statutory language of SB 1383. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3.
4294	Nilsson, Solid Waste Solutions	18984.7 Container color requirement is not in full force until 1/1/2036. <b>The issue is that by 2036, all containers in the state will be the above-stated colors. Thus, when containers reach the end of their life, the hauler will need to start to implement the State mandated color scheme. This is a costly proposition and will require the other color containers to now become plastic scrap that is not currently recyclable due to the non-existent plastic recycling industry and the China sword.</b>	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.
4295	Nilsson, Solid Waste Solutions	18984.7 <b>Also, the deletion of yellow food waste containers and lids for brown ones is ridiculous as most haulers in Southern California are using Yellow. We have just generated more plastic non-recyclable waste.</b>	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.
4296	Nilsson, Solid Waste Solutions	18984.5 <b>We are not sure how small jurisdictions will have staffing available to provide contamination monitoring twice a year to all waste sectors.</b>	Jurisdictions are not required to select this alternative approach to container contamination minimization in Section 18984.5(c). Also, a jurisdiction is not required to grant waivers.
4297	Nilsson, Solid Waste Solutions	18984.8 <b>Labels should be required to be consistent throughout a community. How is the jurisdiction to fund the ongoing labeling. especially with multiple haulers? No standard label is currently available.</b>	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.
4298	Nilsson, Solid Waste Solutions	18984.11 <b>They have made all programs mandatory, but the jurisdiction is still required to monitor all exceptions to programs annually. Staffing for small jurisdictions is definitely an issue here. Additionally, how can these programs be mandatory by 2022 if there are no current food waste permitted facilities and none in our area in the process of getting permits?</b>	Jurisdictions are not required to select this alternative approach to container contamination minimization in Section 18984.5(c). Also, a jurisdiction is not required to grant waivers. The regulations allow for a Corrective Action Plan (CAP) that provides additional time under specified conditions regarding delays in securing organics recycling capacity.

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4299	Nilsson, Solid Waste Solutions	18985.2 <b>Jurisdiction will be required to develop a strong outreach program to all levels of media to educate on the new collection system and mandatory participation. Implementation to also be tracked. Language requirements are not limited to bi-lingual and include any community that meets the stated size will need to be addressed.</b>	This comment was unclear with regard to Section 18985.2 Edible Food Recovery Education and Outreach and did not provide any suggestions regarding a potential regulatory change.
4300	Nilsson, Solid Waste Solutions	Article 7 Regulation of haulers jurisdiction: must require haulers to meet the requirement of this chapter. Haulers must identify where organics are taken and also comply with Article 3 Organic Waste Collection Services. <b>Franchise agreements and permits must require haulers to comply with this section of the law. That will require amendments to many agreements by the regulating bodies. This is a very time consuming and staff-intensive process. Also, there are not enough local permitted facilities to take food waste materials.</b>	Thank you for the comment. The comment is not requesting a specific change to language.
4301	Nilsson, Solid Waste Solutions	18988.3 Self-haulers must also report to jurisdictions. Not clear on how to handle landscapers. <b>Not sure how a jurisdiction can reach all organics self-haulers especially local landscapers.</b>	The definition of 'hauler' in Section 18982(a)(31) of these regulations refers to existing Title 14 Section 18815.2(32): 'Hauler' means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. 'Hauler' includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler. As described, "organic maintenance services" would be landscapers which are self-haulers as they are the actual entity generating this waste. A change in language is not needed. It would be unnecessarily burdensome to require self-haulers to report, it is unclear why self-hauling from other jurisdictions would need to be determined.
4302	Nilsson, Solid Waste Solutions	18991.3 <b>Jurisdiction will need to establish a database of food recovery programs and educate all generators, residents, and businesses on the program. This again is a staff-intensive project.</b>	Jurisdictions are not required to educate residents and all businesses about their edible food recovery program. With regard to edible food recovery education and outreach, jurisdictions are only required to educate tier one and tier two commercial edible food generators. Providing education to commercial edible food generators is critical to ensure that generators understand the commercial edible food generator requirements that they are subject to, and also critical for helping California achieve the 20% edible food recovery goal.
4303	Nilsson, Solid Waste Solutions	18993.3 Recycled Content Paper Procurement requirement. <b>Most agencies already purchase recycled paper products; it will now have to be quantified. The additional requirement for the purchase of recovered organic products will be difficult for most agencies as green waste processing is not local for most communities.</b>	Existing language in Public Contract Code 22152 already contains provisions for local public entities to require businesses to certify the percentage of postconsumer materials, therefore this is not a new requirement as the comment suggests. Regarding the "additional requirement for the purchase of recovered organic products", the intent of the comment is unclear. The requirements mandate jurisdictions to procure recovered organic waste products in order to help meet the ambitious diversion targets set forth by SB 1383. 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. Jurisdictions should consider taking actions to implement programs to be in compliance with the regulations on January 1, 2022.

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4304	Nilsson, Solid Waste Solutions	18994.2 <b>Reporting dates seem to overlap and conflict with each other and also the AB 939 August 1, annually submitted Annual CalRecycle Report.</b>	A change to the regulatory text is not necessary. The annual reporting dates required in Section 18994.2 do align with the current reporting dates for the Electronic Annual Report, both due on August 1st of each year. Reporting for the first year, jurisdictions complying with Section 18994.1 may report for the January 1, 2022 through June 30, 2022 on October 1, 2022, otherwise their first report is due August 1, 2022. Each subsequent report shall cover the entire reporting year and is due August 1 of the following year.
4305	Nilsson, Solid Waste Solutions	18996.2 <b>Jurisdiction will have to provide on-site inspections for Tier 1 and 2 as defined. All to be monitored annually for compliance. This is very labor intensive for local jurisdictions to implement. Will cause staffing issues.</b>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
4516	Noble, Association of Compost Producers	Article 8 – MWELO additions The new section, Section 18989.2 Model Water Efficient Landscape Ordinance, will ensure the procurement of enough quantities of compost to meet the targets set forth in Article 12.	Thank you for the comment. The comment is in support of current language.
4517	Noble, Association of Compost Producers	Article 11 - agree with the changes, specifically: The clarified requirements for using a local waste characterization study. The clarified role of cities, counties, and other entities involved in capacity planning process; especially the “coordination with cities and regional agencies located within the county.”	Thank you for the comment. The comment is in support of current language.
4518	Noble, Association of Compost Producers	Chapter 3 – Article 5 - Requirements for Solid Waste Facilities Replaced daily sampling frequency with quarterly sampling periods. Replaced daily contamination load checking requirements with periodic gray container waste evaluations	Comment noted. This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations
4519	Noble, Association of Compost Producers	Article 12 – Some recommended edits to Section 18993.1. Recovered Organic Waste Product Procurement Target, (f)(1) (B) A Large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.] Some digestates, especially high solids digestion AD, can meet all the Definitions of compost by the US Composting Council accept that it is an anaerobic process (see <a href="http://www.compostingcouncil.org/page/CompostDefinition">www.compostingcouncil.org/page/CompostDefinition</a> ). We would add, “unless the digestate has been further processed or modified to produce a compost product”. For example, by drying, aerating, etc., and tested the product to assure that it meets the USCC National Seal of Testing Assurance analytic protocols and use guidelines and parameters for a mature finished compost. In that case, the “digestate” has been “further processed and tested” to be sold on the market as “compost.” If that occurs, then the material should be classified as compost and treated as such for the purposes of complying with this section of the procurement regulations and therefore counted towards diversion in every jurisdiction where it is procured and used. Recommended Wording addition:	Compost produced at a facility identified in 18993.1(f)(1) constitutes a recovered organic waste product. The facilities identified in that section are: “(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this division; or (B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.” Those identified facilities could use digestate as a feedstock to produce compost. However as identified in the note in the regulatory text in Section 18993.1, digestate itself is not compost and is not a recovered organic waste product. Digestate, like food waste, and green material is an organic material and it is appropriately defined as organic waste in the regulations. The note referenced above was included to clarify that items defined as organic waste in the regulations, and “recovered organic waste products” such as compost and mulch should not be confused as equivalents, and that incentivizing procurement of organic waste recycling byproducts is not the intent of the regulations.



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		[NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost. <b>Unless the digestate is modified to produce a “compost” product it is not a recovered organic waste product eligible for use in complying with this Article.]</b>	
6102	Northrup, L., City of Agora Hills	Staffing: With all of the new requirements from route reviews, tracking, contamination monitoring, outreach, new container requirements, and enforcement requirements, small jurisdictions such as ours will have a difficult time delegating work as staffing is tight. Without extra funding to hire more staff/outsource to a contractor or the infrastructure to support the new bill, cities such as ours will have a difficult time implementing all of the new regulations and may not be able to comply with the new bill.	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.
6103	Northrup, L., City of Agora Hills	Infrastructure Capacity: California cities lack sufficient infrastructure capacity to be able to meet the needs for new organic waste processing. The City of Agoura Hills is concerned that the timelines detailed in these regulations will not be long enough to develop the new facilities to reach compliance. Our area specifically has no facilities equipped to process organic waste, nor are any permits in the process to begin to make these kinds of facilities.	The regulations allow for a Corrective Action Plan (CAP) that provides additional time under specified conditions regarding delays in securing organics recycling capacity.
6104	Northrup, L., City of Agora Hills	Enforcement: As drafted, these regulations will make it difficult for cities to prove that they have taken all of the steps required to reach compliance, for example, it could be difficult for cities to show they do not have sufficient infrastructure before CalRecycle takes enforcement actions.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
6105	Northrup, L., City of Agora Hills	Funding: Many local governments will face challenges in implementing new organic waste diversion programs due to lack of sufficient state and local funding. This will prove problematic in not only increasing infrastructure capacity, but also updating bins and labels, 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

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6106	Northrup, L., City of Agoura Hills	<p>Procurement: Requires local governments to procure specified amounts of recovered organic waste products set by CalRecycle. This procurement requirement will result in substantial additional costs to local governments as they must buy these materials.</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>
6107	Northrup, L., City of Agoura Hills	<p>Penalties: These regulations will impose daily fines on jurisdictions that, for certain violations, could cost up to \$10,000 per day for not complying. Designing penalties before implementing the program and prior to recognizing the sticking points and needs of generators is premature.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
4475	Oseguera, Waste Management	<p>Section 18982 (14.5)(B)(1) – Definitions; Section 18984.5; Section 17409.5.8(a) and (c)- Incompatible Materials Limit in Recovered Organic Waste; Section 17409.5.10.5 Solid Waste Handling at Co-located Facilities(a); 17896.57. Digestate Handling(a)(3). Waste Management is concerned that the above-cited sections of the Proposed SLCP Regulations could be interpreted to conflict with prior vested rights and approvals and leave ambiguity as to certain activities at permitted facilities which we currently have under construction. For example, Section 18982(14.5)(B)(1) states “If the Compostable Material Handling Operation or Facility has more than 10 percent organic waste contained in the materials sent to disposal for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility.” This 10% limitation on processing/composting facilities exists throughout the regulatory text and creates tremendous burdens on developing, construction and operating qualifying facilities and infrastructure. The new language defining a Designated Source Separated Organics Waste Facility creates a hurdle for Source Separated Facilities that does not exist today and is a new basis for a jurisdiction to qualify for the Performance Based Source Separated Collection Service (Section 18998.1(a)) creating a significant issue for current facilities and those that had been planned, approved and that are under construction. The introduction of MSW organic feedstock will create an unknown variable of recovery impact thus creating a significant risk of not achieving a minimum diversion of 75% starting 2025. The 10% threshold for organics in the residual for a compost facility is extremely difficult to achieve, costly and not based on the actual make-up of this waste stream. Residual from a composting process contains a high level of organics by weight as compared to other contaminants like plastic. It would not be uncommon for screened overs of a compost process to consist of 80% organics by weight.</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> <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. 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> <p>The designated source separated organic waste facility are facilities that a jurisdiction can send their waste to in order to meet the performance-based source separated organic waste collection service.</p>

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		<p>Compost facilities should not have a residual threshold while other processing facilities have a recovery threshold. Compost facilities should be measured by the same recovery thresholds as other processing facilities.</p> <p>We have explained in writing and during our conversations that Waste Management has received permits and is constructing an in-vessel composting facility in Oakland that will process both source separated organic and organic materials extracted from municipal solid waste (“MSW”) at an attached facility. After years of research, and meeting with companies across the world, we have partnered with a well-experienced company to develop the most effective technology available to achieve the ambitious diversion goals established by the City of Oakland and required under our franchise agreement. The 10% organic residual requirement measured by weight threatens the deployment of this effective (previously permitted) technology for co-processing of source-separated organics with organics extracted from other solid waste. Based on our discussions with CalRecycle, however, the Department is apparently not opposed to this type of facility or processing, but wants to ensure separate measurement of contaminants in source-separated organics and contaminants in other processed materials. Please view the process flow example in our February letter that was previously explained and reviewed with CalRecycle. As stated in our February 20, 2018 letter, impairment of vested contract/permit rights are constitutionally unenforceable and will result in numerous legal challenges. We have infrastructure projects in Oakland and Los Angeles that are the result of years of planning and permitting, with well over \$100 million in committed capital. Waste Management supports CalRecycle’s objective to divert organic material from landfill disposal, but the proposed 10% standard on the various processing/composting facilities in existence or being constructed around the state or the potential loss of a “Designated Source Separated Organic Facility” classification would be unlawful, unnecessary and contrary to the purposes of SB 1383. Finally, the proposed 10% standard creates the untenable situation where a hauler, for example, is held responsible for the satisfaction of a performance standard that is wholly in control of the processing/composting facility.</p> <p><b>Recommendation: This new definition should have a longer ramp up time to achieve recovery targets. The recovery target of 75% and 10% organics in the residual is not supported with any data that WM is aware of and should be further studied to determine a base case and then develop reasonable targets and ramp up periods supported by the industry. More importantly, any diversion requirement must be based on available organics in the stream. An operator cannot achieve 75% diversion if the stream only contains 50% organics.</b></p>	
4476	Oseguera, Waste Management	Section 17409.5.8 – Incompatible Materials Limit in Recovered Organic Waste Section 17409.5.8(a) states 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	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

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		<p>stream with no more than 10 percent of incompatible material by weight to the destination it is being sent per operating day.</p> <p>Recommendation: WM Comment: <b>Section 17409.5.8 should be removed. Limiting the level of contamination in organic waste will restrict organic waste from being processed and recovered. Historically, many jurisdictions have more than 10 percent incompatible material which may require several levels of processing to remove and may not achieve a level of organics in the residuals of less than 10% at just one processing facility.</b></p>	<p>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>
4477	Oseguera, Waste Management	<p>Section 18984.5 – Container Contamination Minimization</p> <p>Section 18984.5(b)(4)(A) states that “A designee may only dispose of a container with visible prohibited container contaminants with the consent of the jurisdiction”. The language in this sentence needs to be clarified to allow for a jurisdiction to provide written pre-approval that provides flexibility to municipalities, collectors and processors. As written, the language could be misinterpreted to mean that a collector would need to attain authorization on each individual container, load etc. which would be costly, time consuming and nearly impossible to attain.</p> <p>In Section 18984.5(c)(1)(D) the language is confusing as it relates to the number of samples required for the waste composition studies. The requirements for sampling are ambiguous and the frequency of sampling is unnecessary and overly burdensome. Waste Management strongly suggests that CalRecycle meet with industry players to further discuss, clarify and modify this section.</p> <p>Waste Management agrees that contamination in organic waste containers needs to be driven down. However, the Proposed SLCP Regulations create reporting and other significant obligations; we feel this is not realistic and will impose an undue burden and costs on jurisdictions, haulers, facility operators and generators.</p>	<p>CalRecycle has removed section 18984.5(b)(4)(A). The change is necessary to clarify that a hauler does not have to get approval on a case-by-case basis but rather can obtain prior consent from the jurisdiction for disposing of container with prohibited container contaminants. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p>
4478	Oseguera, Waste Management	<p>Section 20901.1 Gray Container Waste Evaluations- Frequency</p> <p>Waste Management has concerns about the new language provided in Section 2090.1 and 20901.2 as the regulation places an undue cost burden on disposal facilities throughout the state. The proposed regulation would require thousands of waste evaluations per year and, importantly, this type of information can be derived from multiple data points that are already provided to CalRecycle. AB901 places significant reporting requirements on recycling and disposal facilities and we believe that this new requirement is redundant and unnecessary.</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
4479	Oseguera, Waste Management	<p>Section 21695 – CalRecycle – Organic Disposal Reduction Status Impact Report</p> <p>We believe CalRecycle’s deleting the 36 inches of intermediate cover requirement in section 20700.5 then adding a requirement to evaluate intermediate cover compared to final cover is unfair and unsupported by the rulemaking process. Changing longstanding intermediate cover requirements to address Cal Recycles apparent concern that these areas contribute more fugitive methane emissions compared to areas with final cover should be based on sound scientific principles with ample input and discussion from all stakeholders. We strongly suggest that changes in intermediate cover requirements be addressed under separate rule</p>	<p>CalRecycle has revised Section 21695 in response to comments. This section was revised to deleted Subdivision (i), removing the requirement for operators to conduct an impact analysis of the effectiveness of intermediate cover compared to final cover and develop a plan for intermediate cover to be as effective as final. This was necessary to lessen the operator’s burden.</p>

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		<p>making, not by adding a change of this magnitude in a second draft of the proposed rule. We are not aware of any discussions between CalRecycle and stakeholders concerning a comparison of intermediate cover to final cover during the two years since the start of the informal rulemaking process and we ask that these discussions, with stakeholders, are scheduled to further discuss potential language that can address concerns.</p> <p>Waste Management’s consultant, SCS Engineering, is providing an expanded comment regarding this topic and we have attached the letter that they will be sending on our behalf.</p>	
4480	Oseguera, Waste Management	<p>Section 18984.1(a)(1)(A) – Three-container Organic Waste Collection Services; Section 18984.2(a)(1)(C) – Two-container Organic Waste Collection Services</p> <p>The above-cited sections allow the use of “compostable plastic” that meet ASTM D6400. Waste Management requests that CalRecycle eliminate use of “compostable plastic” for the following reasons. As decades of field experience has proven, further analysis needs to be completed on compostable plastic products as they are challenging to break down in commercial compost facilities (composting methods have significantly reduced the time to produce compost). Additionally, compostable plastics are tough to differentiate from similar “non-degradable” products when looking at volumes at scale (i.e. containers, truckloads) and are often classified as residuals as they are indiscernible from other plastics that are not compostable. Finally, they make marketing programs problematic when selling compost products as Organic Material Review Institute (OMRI -organic) certified. CalRecycle’s regulation concerning accepting such feedstock is listed in 14 CCR § 17868.3.1 - Physical Contamination Limits.</p> <p>The regulation states:  Finished “Compost shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters; no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters. Compost that contains physical contaminants in excess of either one or both of these limits shall be designated for additional processing, disposal or other use as approved by local, state or federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur prior to the point where compost is removed from the site or beneficially used on-site. Test results of samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced.”</p> <p>Plastics (even if “compostable”) in the organics waste stream renders compliance with the 0.5% physical contaminants regulation very difficult and additional thought needs to be completed regarding allowance of these materials.</p>	<p>Thank you for the comment. Part of the comment is in support of the current language. Existing Public Resources Code already specifies that that all compostable plastic products be labeled “compostable,” with reference to applicable standard specifications, including ASTM D6400 and D6868.</p> <p>Nothing precludes a jurisdiction from requiring compostable plastic to meet third party requirements in addition to those in Sections 18984.1(a)(1)(A) and 18984.2(a)(1)(C). CalRecycle will clarify this in the FSOR.</p> <p>In regards to eliminating compostable plastics, CalRecycle determined that it would be acceptable if these materials are placed in green or blue containers if the materials meet appropriate standards and the receiving facility accepts the materials for purposes of recycling. Nothing in the regulations precludes a jurisdiction from limiting these materials and nothing precludes a facility from not accepting these materials. While it is not clear that rigid compostable plastics can be readily used in composting operations given the timeframes needed for the materials to decompose, there may be technology changes in the future that allow rigid compostable plastics to be recycled/composted more readily. 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>
4481	Oseguera, Waste Management	Section 21570(13) – CalRecycle – Filing Requirements and Section 21660.2 - Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications	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.

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		<p>During our meeting with CalRecycle on February 9, 2018 and in our follow-up letter dated February 20, 2018, Waste Management expressed concerns regarding the protracted and bureaucratic permitting process required to permit CEQA approved facilities or activities. In addition, facilities may be subject to legal challenge even after the CEQA requirements are satisfied. Companies require more certainty before making these significant multi-million dollar investments. As the state has acknowledged, these ambitious goals cannot be met without the timely development, construction and operation of processing facilities. We continue to strongly advocate for commitment of CalRecycle staff resources to facilitate alignment of state and local district agencies to support and streamline the permitting process for new and expanded facilities.</p> <p>Our petition for a streamlined process continues to not be addressed in these draft regulations. In fact, draft language increases public notices from 300 feet to one (1) mile and new language requires an applicant of a new or expanded solid waste facility permit to hold public meeting within 180 days prior to submittal of the application. This type of regulation only serves to further delay and make increasingly difficult the permitting of facilities.</p> <p>Recommendation: <b>We recommend striking the language in Section 21570(13) and that a Public meeting is held once application is deemed correct and complete. Regarding Section 21660.2, a clarification is needed regarding “any disadvantaged communities affected”. This is WM’s third comment to CalRecycle regarding this topic and no clarification to date has been provided or a description regarding CalRecycle’s intent with the definition of “any disadvantaged communities affected”.</b></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>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.</p> <p>Section 21570(f)(13) is an operator’s requirements, which has been renumbered to Subdivision (g), whereas, 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.</p>
4482	Oseguera, Waste Management	<p>Section 18984.13(a)(1) – Emergency Circumstances</p> <p>Waste Management appreciates the provision for “unforeseen” equipment failures or operational failures. However, the regulation states that the jurisdiction “may” allow transport to a landfill for up to 90 days. After notification of an unforeseen equipment failure or operational failure, the regulation should state that the jurisdiction “shall” allow transport to a landfill; otherwise, the situation may arise that organic waste piles up at a facility resulting in potentially serious public health and safety issues and concerns because the decision is left to the sole discretion of the local jurisdiction. Second, the 90-day limitation may not suffice for a particular emergency. We suggest adding language to allow for an extension upon demonstration to a jurisdiction that the emergency situation continues notwithstanding the due diligence of the facility owner/operator. Finally, the Proposed SLCP Regulation should have a section allowing for a waiver during planned, routine maintenance subject to the discretion of the local jurisdiction.</p>	<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>
4483	Oseguera, Waste Management	<p>Section 18985.1(e): Education and Outreach</p> <p>Education and Outreach will form a critical part of the successful role out of the State’s ambitious goals as outlined in SB 1383. This section, as drafted, is overly burdensome, vague and ambiguous. Section 18985.1(e)(1) requires information to</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>

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		<p>be made available online and on a notice in the mailed material, regarding the on-line availability, in any language where the language is spoken by more than 10,000 persons or 0.5% of the residents and that population speaks English “less than very well.” Similarly, Section 18985.1(e)(2) requires this information to be provided in the mailed material in any language where more than 50,000 persons or 5% of the residents speak English “less than very well.” <b>Please clarify what resource the jurisdictions may use to comply with this information</b> (for example, the 2000 Census or future census information).</p>	
4484	Oseguera, Waste Management	<p>Section 18995.4 – Enforcement by Jurisdiction  We appreciate CalRecycle’s clarification that a determination of a subsequent offense is based upon “commencement of an action against the same entity for a violation of the same section . . . within one year of imposing a penalty for a first offense.” We understand this to mean that a subsequent violation must be of the same specific section or subsection, meaning the same action or omission that formed the basis of the violation shall constitute a second or subsequent offense. We kindly request that CalRecycle clarify because often there are multiple subsections in a single section. In addition, <b>we ask that CalRecycle modify the regulation to apply to the same facility versus the same entity because permits are issued by facility and not by legal entity.</b> For example, a permit is generally issued to a particular composting site versus the owner/operator corporate entity who may own/operate multiple sites. Accordingly, violations should be assessed and counted against the composting facility.  Finally, <b>Waste Management recommends that the enforcement procedures of Section 18996.9(b) be incorporated into Section 18995.4 (“Enforcement by a Jurisdiction”) so that the two sections are aligned in enforcement procedures regardless of whether the enforcement proceeding is initiated by a jurisdiction or by the Department.</b></p>	<p>CalRecycle has revised section 18995.4 in response to this comment. Section 18995.4 (a)(3)(B) states a second, third or subsequent offense is one against the same entity for a violation of the same section. This section will be revised to add in "section and subsection" to clarify that it is the exact same violation that would cause a 2nd, 3rd or subsequent offense.</p> <p>CalRecycle will not be modifying "regulated entity" to "facility" as facilities are regulated by their Local Enforcement Agencies (PCR Section 45000) and the penalty charts are for the regulated entities under the jurisdiction’s enforcement.</p>
4485	Oseguera, Waste Management	<p>Section 18996.9 – Department Enforcement Actions Against Entities  Waste Management submits that Subsection (b)(2)(C) defining a second or further offense should be within one (1) year of imposing a penalty for a first offense and not within five (5) years so that the two enforcement provisions are aligned regardless of whether the enforcement proceeding is initiated by a jurisdiction or by the Department). In addition, the five-year period 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. <b>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.</b></p>	<p>A change to the regulatory text is not necessary. Section 18995.4(a)(3)(B)(2), Enforcement by a Jurisdiction, states a violation by the same entity for the same previous violation within a one-year timeframe will constitute a second or subsequent offense. This timeframe of one year is required to be consistent with the limitations on local issuances of infractions under the Government Code. Section 18996.9(b)(2)(C), Department Enforcement Actions over Entities, states a violation by the same entity for the same previous violation in a five-year timeframe will constitute a second or subsequent offense. The five-year timeframe is consistent with CalRecycle's other enforcement programs. The five-year timeframe is necessary to identify chronic repeat offenders and subject them to a higher penalty to discourage noncompliance.</p>
4486	Oseguera, Waste Management	Article 16 – Administrative Civil Penalties for Violations of Requirements of This Chapter	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.

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		<p>The penalty framework should be revised. As drafted, the proposed penalties will lead to excessive penalties in violation of the California Constitution and California law prohibiting excessive fines and penalties. In addition, as we explained in our prior comments, jurisdictions should not be authorized to impose “stricter” penalties as this will lead to unfair and unequal penalties assessed across the State for the same violation. The potential penalties across the State should be uniform and consistent. 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 the penalties are lower than other jurisdictions. To be successful, CalRecycle’s regulatory framework should encourage infrastructure development across the State without a patchwork of regulatory rules, requirements and enforcement.</p>	
4487	Oseguera, Waste Management	<p>Section 18984.1(d) Three-container Organic Waste Collection Services; Section 18984.2(f) Two-container Organic Waste Collection Services</p> <p>The above-cited regulatory text permits jurisdictions to authorize the placement of organic waste in plastic bags for collection in a green container and delivery to a processor/composter provided certain conditions are met. <b>CalRecycle should not allow use of plastic bags for organic waste prior to collection.</b> Plastic bags result in decreased efficiency, equipment breakdowns and creation of additional plastic waste in the environment. With its new organics program, California has the opportunity to lead the nation and set the standard for organics waste management and increased diversion. Accordingly, CalRecycle should not allow use of plastic bags as set forth in these sections.</p>	<p>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.</p> <p>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 plastic bags, 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).</p> <p>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.</p>
4712	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>1. It is important to clarify that (a) these proposed regulations do not apply to the collection and processing of mixed waste where the jurisdiction has a Source-Separated Organic Waste Collection Service, and (b) WM's existing and planned facilities that will process SSO with organics extracted from MSW will be permitted under these regulations.</p> <p>Waste Management understands, from our meeting on February 9, that CalRecycle intends to continue to allow for the processing of mixed waste to extract organics and other recyclable materials, provided that the jurisdictional source of such materials complies with Section xxx30.1. Thus, such processing of mixed waste would be in addition to (not in place of) SourceSeparated Organic Waste Collection Service (SSOWCS) or Mixed Waste Organic Collection Service (MWOCS). Please confirm that our understanding, as described above, is consistent with CalRecycle's intent, and indicate how this would be memorialized in the final regulations.</p>	<p>Thank you for the comment. Language to this effect is already included in the regulations, see Section 18984.1(c).</p>



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4713	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>On a related issue, we are very concerned about draft Section 17409.5.4(a), which states "Source separated organics handling shall be kept separate from other solid waste streams." During our last meeting, we indicated that "handling" should mean those activities prior to processing, such as collection and transportation to a transfer or processing facility, and that it should not include processing, as that would contradict certain existing Waste Management governmental contracts, permits and facilities that include co-processing with the City of Oakland requires that we construct and operate a "mixed materials recovery facility" (the "OMRF") at which mixed materials will be processed and organics and recyclables extracted and diverted. This facility is already pennitted and being constructed at our Davis Street facility. Waste Management is also in the process of constructing a fully pennitted composting facility at Davis Street (the "OMCF") at which SSO will be processed along with organics extracted from MSW at the Davis Street OMPF. All compost product leaving the Davis Street OMCF must meet all California State Title 14 requirements.</p> <p>The following diagram depicts the material flow from the generator through processing and shipment to end markets at Waste Management's new OMRF. SEE LETTER FOR DIAGRAM</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations. 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>
4714	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Waste Management's fully permitted Oakland and Los Angeles facilities will be able to co-process the SSO collection stream with the organics fraction of the mixed waste stream. The combined organics stream will then be processed by one of the disposal avoidance methods identified in the draft regulations, (AD, Composting, other). We want to make sure CalRecycle is fully aware of these facilities and solutions developed under the existing regulatory scheme to meet specific franchise requirements for various jurisdictions to meet very high diversion goals. CalRecycle should not adopt regulations that could potentially impact the jurisdictions' or private parties' discharge of their existing significant diversion/regulatory and contractual obligations under the current system. From our meeting, we understand that CalRecycle's does not intend with these regulations to adversely impact these facilities and these solutions. Waste Management looks forward to the draft regulation revisions and how the foregoing issues will be addressed.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations. 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>
4715	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Cost recovery</p> <p>The draft regulations will give CalRecycle significant authority to regulate future facilities and programs, to which Waste Management does not oppose. However, the draft regulations will have significant cost impacts to jurisdictions, the waste industry, and generators across the state. Jurisdictions without reasonable access to</p>	<p>Comment noted. CalRecycle acknowledges that implementation of the proposed regulations will involve costs. SB 1383 includes statutory provisions allowing jurisdictions to offset the costs of implementing the program through fees.</p>

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		<p>necessary facilities will endure disproportionate economic hardship due to transportation and other costs. The cost of implementation and enforcement of SSO collection from all generators in the state will be staggering. Added to the expense of collection will be the cost of processing and marketing investments necessary to manage expensive, hard to handle organic materials. Similarly, the cost of purchasing containers, labeling, auditing and record keeping will add cost to programs and services providers. We expect that the jurisdictions and the industry will struggle to manage the increased costs and as a result may challenge the legislation. It is imperative that the draft regulations ensure sufficient cost recovery to offset the tremendous financial burdens of the proposed regulations. Such reimbursement should come from the state. However, if not reimbursed by the state, any increased cost of compliance with the new SB 1383 regulations must ultimately be the responsibility of the generators. In addition, jurisdictions should be required to impose these regulatory obligations in their franchise agreements and include appropriate rates to compensate for costs of compliance.</p>	
4716	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Processing and markets</p> <p>As the requirements of these draft regulations are phased in, the amount of organic material requiring processing will increase significantly. End markets, already challenged to handle the volume of material currently processed, will face greater challenges from the additional volume. Expanding sufficient end market outlets will be unpredictable and difficult as end users are outside the scope of SB 1383 and controlled by classic "supply and demand" market forces. Furthermore, it is reasonable to expect that processing technology and end markets will be varied across the state. We encourage CalRecycle to establish a "flexible" regulatory framework to allow technology and end-market solutions to develop as the quantity of organics collected and processed grows. A glut of supply without corresponding processing capability or end product markets benefits no one, drives down end-product value and threatens processors and program viability.</p>	<p>Comment noted. CalRecycle acknowledges that implementation of the proposed regulations will increase organic material going to processing and end-uses. This will require expanded processing infrastructure. The proposed regulations include procurement requirements to help drive end-use markets for processed material.</p>
4717	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Processing and markets</p> <p>We are also greatly concerned that necessary new facilities required to process the increased supply of organic materials will take too long to permit and construct. This issue needs to be addressed. Theoretically, permitting times could be reduced if CalRecycle commits staff resources to facilitate the alignment of state and local district agencies to support the permitting process for new and or expanded permits required for organics processing. Although, local permitting efforts for new organics processing facilities will remain unpredictable, adding time and expense to the development of facilities.</p>	<p>Comment noted. Comment is not commenting on the regulatory language.</p>

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4718	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Processing and markets</p> <p>In summary, Waste Management recognizes that the Proposed SLCP Regulations are in response to the legislative requirements of SB 1383. However, as currently drafted, the regulations conflict with existing law, existing franchise agreements, and vested facility permits and solutions. We urge that the final regulations afford flexibility to all interested parties - CalRecycle, jurisdictions, waste haulers and processors, and generators - based on the significant unknowns related to technology, required infrastructure, organics markets, behaviors of generators, etc.</p>	<p>Comment noted. It is unclear what changes and "flexibility" the commenter is recommending to the second draft of regulatory text, so CalRecycle cannot make a regulatory change. Additional context needs to be provided before any changes to the regulations could be considered.</p>
4719	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>(34) "Mixed waste organics collection service" means a waste collection service that collects organic waste with other solid waste in a mixed waste collection container or a disposal container and sends the material to a high diversion mixed waste processing facility that recovers the organic waste at the level specified in xxx30.2.</p> <p>Waste Management Comment: <b>CalRecycle should add a definition of "high diversion mixed waste processing facility".</b></p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>
4720	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>(35) "Mixed waste organics container" means a container that is intended for the collection of solid waste including organic waste that will be are [sic] separated at a high diversion mixed waste facility.</p> <p>Waste Management Comment: <b>CalRecycle should add language clarifying that MSW collected from generators who separately receive SSO collection services will not be deemed "mixed waste organics collection services", and such MSW may continue to be processed to recover divertible materials without regard to the proposed Chapter 12 regulations.</b></p>	<p>Thank you for the comment. Language to this effect is already included in the regulations, see Section 18984.1(c).</p>
4721	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>(37) "Organic Waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, green waste, landscape and pruning waste, applicable textiles and carpets, wood, lumber, fiber, manure, biosolids, digestate and sludges.</p> <p>Waste Management Comment: <b>Textiles, carpets, lumber, biosolids, digestate and sludges are not generally included in SSO collection programs, and require different processing.</b> Although we understand that some textiles and carpets may be made from organics materials, many are not, and it is not reasonable to expect customers and collectors to distinguish between them. These draft regulations largely utilize the term "organic waste" to describe a material collected under a jurisdiction-wide collection service, either Source-Separated Collection Service or Mixed Waste Organics Collection Service. In that context, "organic waste" does not</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>

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		include materials such as textiles, carpets, etc. <b>For the foregoing reasons, we request a modification to this definition to delete "textiles, carpets, lumber, biosolids, digestate and sludges."</b>	
4722	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. (47) "Residual organic waste" means waste that remains after organic waste has been processed by landfill disposal. Waste Management Comment: <b>CalRecycle should clarify by adding the following language: "...that is disposed in a landfill after processing of organic waste."</b>	Comment noted, this comment is not directed at changes made to the second draft of regulatory text.
4723	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Article 2: Landfill Disposal and Reductions in Landfill Disposal Section 20.1(a): The following dispositions of organic waste shall be deemed to constitute landfill disposal: (1) Final disposition at a landfill. (2) Beneficial reuse at a landfill, including but not limited to Alternative Daily Cover and Alternative Intermediate Cover. (3) Any other disposition not listed in subsection (b) of this section. Waste Management Comment: <b>Subsection (2) should be limited to ADC and AIC, which is already the law under AB 1594 (effective 2020). If we use compost (or mulch material that meets existing standards protecting environmental and human health) for landscaping or final slope stabilization, for example, it should be counted as diverted regardless of the location.</b>	Section 18983.1 (b)(5) addresses the commenter's concerns by allowing such activities to qualify as a reduction in landfill disposal if it meets the conditions of that section. 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.
4724	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Section 20.1(b): Organic waste sent to one of the following facilities or activities shall be deemed to constitute a reduction of landfill disposal, <del>except for any residual material sent from one of these facilities for landfill disposal</del> , as that term is defined in subsection (a) of this section, shall still be deemed to constitute landfill disposal: (1) An operation that qualifies as a "Recycling Center" as set forth in section 17402.5(d ), or is listed in section 17402.5(c); (2) A "Compostable Material Handling Operation or Facility" as defined in section 17852(a)(12 ), or small composting activities that would otherwise be excluded from that definition pursuant to section 17855(a)(4)); (3) An "In-vessel Digestion Operation of Facility" as defined in section 17896.2(a)(14); (4) A Biomass Conversion operation or facility as defined in section 40106 of the Public Resources Code; (5) Other operations or facilities with processes that reduce short-lived climate pollutants as determined by the Executive Officer of the California Air Resources Board pursuant to section xxxx20.2. Waste Management Comment: <b>The language underlined above should be modified to reflect that once processed material leaves one of the above facilities for</b>	Comment noted, this comment is not directed at changes made to the second draft of regulatory text. The regulatory language states that these activities constitute a reduction in landfill disposal if they are not subsequently sent for landfill disposal. By implication, this language means that if the material is sent anywhere else, it remains a reduction in landfill disposal.

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4725	Oseguera, Waste Management	<p><b>purposes other than disposal, it should be deemed 100% diverted, because the initial processor has no control over subsequent uses.</b></p> <p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 3: Mandatory Organic Waste Collection  Section 30.1: (a) Except as provided in Section xxx30.2 a jurisdiction shall provide a source separated organic waste collection service that complies with the following:  (1) The service shall be provided to every organic waste generator located within the territory subject to its jurisdiction. (2) Every generator shall be provided a separate container, or containers, for the separate collection of organic waste. (A) Organic waste shall be collected in an organics container that is expressly limited to the collection of organic waste. The organics container or containers shall, at a minimum, be intended for the collection of the following materials: food waste, soiled paper, green waste, landscape and pruning waste. (B) Dry lumber, wood and fibers may be collected in organics containers or in a commingled recycling container as long as it will be sent to a facility that recycles each organic waste intended for collection in that container. (C) The disposal container shall only be intended for the collection of nonorganic solid wastes and shall not be used for the collection of organic waste. (3) Each type of waste container shall be a color that is distinct from the other containers or have a lid that is a color that is distinct from the lids of the other containers. The waste containers shall include labels as follows: (A) The label on the organics container or containers, and the commingled recycling container shall: 1. List each type of material intended for collection in that container in writing 2. Include at least three graphic examples of material that can be accepted in the container. 3. Include at least two graphic examples of materials that are prohibited from being placed in the container. The graphic example shall include a clear marker indicating that the specific materials are not accepted in the container. (B) The label on the disposal container shall include at least two graphic examples of materials that are prohibited from being placed in the container. (C) The label on the disposal container shall include a statement that proper separation of waste is mandatory. (D) A jurisdiction or hauler may use educational material provided by CalRecycle to comply with the labelling requirements of (A)-(C) of Paragraph (3). (4) The jurisdiction, or hauler collecting organic waste on behalf of the jurisdiction, shall: (A) Collect and transport all organic wastes collected in the organics container to a facility that recycles source-separated organic waste. (8) Collect and transport the contents of a commingled recycling container to a facility that specifically recycled the material types included in the container. (5) A jurisdiction, or hauler collecting solid waste on behalf of the jurisdiction shall not transport the contents of the organics container or a commingled recycling container that includes organic waste to a facility that does not process and recycle organic waste. (b) A jurisdiction shall, require generators to comply with the requirements of Article 5 of this Chapter, including placing materials in proper bins.</p>	<p>Comment noted. The commentor is noting that collectors and processors will need assurance that they will be able to capture the additional costs through rate increases or other forms of reimbursement.</p>

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		<p>Waste Management Comments:</p> <p>General comments: From collection and processing, to public education, these requirements will increase the cost of services provided to customers across the state. New facilities must be available to accept the material diverted, and containers, collection vehicles, labelling and education systems all add cost that must be passed on to customers. In those communities with existing organics programs, new containers and labels will be required in order to remain in compliance. For jurisdictions that already require organics collection or this type of information, similar requirements are set forth in the existing contracts. This level of specificity will likely contradict many of the existing contractual obligations. Collectors and processors will need assurance that they will be able to capture the additional costs through rate increases or other forms of reimbursement.</p>	
4726	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 3: Mandatory Organic Waste Collection Subsection (a)(2): Commonly, properties do not have sufficient space for additional containers. This creates sufficient challenges and the regulations should accommodate these types of properties with an exemption or alternative.</p>	The regulations allow the jurisdiction to address this situation in the space constraint waiver.
4727	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 3: Mandatory Organic Waste Collection Subsection (a)(2)(A): Some of Waste Management's composters are not able to accept food waste. Accepting food waste will require enclosures or other systems that will significantly increase processing costs. We would like to discuss this with CalRecycle.</p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4728	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 3: Mandatory Organic Waste Collection Subsection (a)(2)(B): Such materials are not usually collected with food and green waste, as they require different and/or additional processing, often at different types of facilities. Commingling these materials with green and food waste would result in less diversion and more contamination.</p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4729	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 3: Mandatory Organic Waste Collection Subsection (a)(3): A large percentage of Waste Management's organics containers would be out of compliance, and there would be significant costs if we were required to modify or replace them. There needs to be a mechanism to capture these costs through rate increases or otherwise.</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.
4730	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 3: Mandatory Organic Waste Collection</p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.

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		Subsection (a)(3)(D): Need clarification on this. Will they be stickers for containers, mailers, etc.? There are significant cost differences to be considered.	
4731	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Article 3: Mandatory Organic Waste Collection Subsection (a)(4): Can the hauler bring material to an intermediate facility, such as a transfer station? Same for subsection (5) below. (B) doesn't seem to belong as it addresses recycling containers, not organics.	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4732	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Article 3: Mandatory Organic Waste Collection Section 30.15(b)(1): A random check of at least five containers shall be conducted at least once per day. Waste Management Comment: It is not clear how the random check would be accomplished. Is it per company, per jurisdiction, per route, etc.?	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4733	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Article 3: Mandatory Organic Waste Collection Section 30.15(c): A hauler shall inform the jurisdiction of contamination that is discovered pursuant to subdivision (b) or section 17409.5 of Title 14 of the CCR in the following manner: ... (3) The notices provided to the jurisdictions shall note the date the container or collection route was identified as contaminated, and shall be provided in writing prior to the next date of collection for the identified route or containers. Waste Management Comments: There would not be enough time to provide this notice in many cases. We suggest changing this to "and shall be provided in writing within three (3) days, or the next service date, whichever is later." Municipalities typically mandate a particular notification process for contamination. <b>Regulations should require municipalities to work with their collection providers to determine the appropriate notification process for the jurisdiction.</b>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4734	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Article 3: Mandatory Organic Waste Collection Section 30.2 (b): A jurisdiction, or the hauler acting on behalf of a jurisdiction, shall not transport mixed organics solid waste to facilities that are not High Diversion Mixed Waste Processing Facilities. Waste Management Comments: <b>Please clarify that material may be taken to a transfer facility prior to a high diversion mixed waste processing facility.</b>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4735	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Article 4: Education and Outreach	The regulations place requirements upon haulers and jurisdictions. CalRecycle will not dictate the means these entities take to fulfill their responsibilities, particularly with respect to franchise

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		<p>Section 40.1 (b): A jurisdiction may comply with the requirements of subsection (a) through their authorized haulers. A jurisdiction complying with the requirements of subsection (a) through their authorized haulers shall require the hauler to: (1) Conduct the outreach required in subdivision (a) and include information identified in (a)(3)) in bill inserts or other regular customer service communications with customers written materials provided by the jurisdiction.</p> <p>Waste Management Comment: This will result in significant additional costs to the authorized haulers, as not all franchise agreements will have clear language that such additional costs will be recovered. <b>The regulations should include a requirement for all jurisdictions to work with hauler to modify existing franchise agreements to add the programs and rates necessary for compliance with this provision and all other provisions to their franchise agreements (or other licenses, contracts, etc.).</b></p>	<p>agreements. That being said, many if not most, franchise agreements provide for renegotiation of terms in light of a change in law.</p>
4736	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 5: Generators of Organic Waste</p> <p>Section 50.1 (d): Generators that are commercial businesses shall provide organics containers and commingled recycling containers in all areas where disposal containers are publicly accessible on their premises.</p> <p>Waste Management Comment: <b>This requirement will likely result in much higher contamination, and should be eliminated. Moreover, it is unclear what "publicly accessible" containers would be. If the language is retained, additional language should allow for a clear procedure to terminate the service based on excessive and ongoing contamination.</b></p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>
4737	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 7: CAL Green Building Standards</p> <p>Section 70.1 (b): Notwithstanding section (a)(2), a jurisdiction that implements a mixed waste recycling program in compliance with section xxx30.2, shall adopt a standard that meets or exceeds the standards established in sections A5.408.3.1 and A4.408.1. of the Building Standards Code (Rev 2017) or a more stringent subsequently enacted standard by the California Building Standards Commission, whichever is applicable, which is incorporated here by reference.</p> <p>Waste Management Comment: <b>Should this be "mixed waste organics collection service" instead of "mixed waste recycling program"?</b></p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>
4738	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 8: Restrictions on Locally Adopted Standards and Policies</p> <p>Section 80.1(b): A jurisdiction shall not prevent lawful recycling of organic waste, if doing so would result in the disposal of organic waste.</p> <p>Waste Management Comment: <b>The "disposal of organic waste" should be replaced by "diversion of organic waste".</b></p>	<p>Comment noted. The regulatory text currently states: "Section 18990.1. Organic Waste Recovery Standards and Policies (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 this section. (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: (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter."</p>



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4739	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 8: Restrictions on Locally Adopted</p> <p>Section 80.1(d): A jurisdiction shall not require a generator to use a hauler or combination of haulers that does not recycle the same organic materials that were recycled by the existing service used by the generator.</p> <p>Waste Management Comment: <b>This could have the unintended consequence of generators finding loopholes to avoid franchised services, and we recommend that it be removed. Also, it could have the unintended effect of preventing a jurisdiction from adopting a franchise system in a prior open market.</b></p>	<p>This section has since been revised to clarify the intention of the provision. The regulatory text currently reads: section 18990.1 (b): "A jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that...(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." A revision to the regulatory text is not necessary.</p>
4740	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 8: Restrictions on Locally Adopted</p> <p>Section 80.1(e): A jurisdiction shall not require organic waste to be taken to a facility with a lower recovery rate than a facility previously used by the generator.</p> <p>Waste Management Comment: <b>This provision would be contrary to numerous municipal franchise agreements in the state, and create too much uncertainty for prospective franchisees. Also, how would "recovery rate" be determined? In addition, recovery rates often fluctuate and it is unclear which rate would be applicable.</b></p>	<p>Recovery rate is no longer included in the regulatory text. A revision to the regulatory text is not necessary.</p>
4741	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 8: Restrictions on Locally Adopted</p> <p>Section 80.1(a): A jurisdiction shall not adopt an ordinance or implement a policy that requires the disposal or recycling of edible food that could be recovered for human consumption.</p> <p>Waste Management Comment: <b>To avoid the potential of abuse (poaching), we suggest adding a requirement that haulers and processors of such edible food must adhere to all applicable food handling standards.</b></p>	<p>The regulatory text currently includes references to health and safety code in section 18990.2. A revision to the regulatory text is not necessary.</p>
4742	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Article 12: Penalties</p> <p>Waste Management Comment: <b>Subsection (b) references Tables 1 - 8, but only Table 1 is included. Please provide Tables 2-8.</b></p>	<p>Comment noted. The current June 2019 draft regulations package does include all penalty tables.</p>
4743	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Draft Amendments to Existing Title 14 Regulations</p> <p>Section 17402(a)(1.5): "Contamination" or "Contaminants" has the same meaning as in section xxx1(a)(9).</p> <p>Waste Management Comment: <b>It appears the reference should be to Section xxx1(a)(12). Please clarify.</b></p>	<p>Thank you for your comment, the error was corrected.</p>

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4744	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Section 17402(a)(18.5): "Organic Waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green waste, landscape and pruning waste, applicable textiles and carpets, wood, lumber, fiber, biosolids, digestate and sludges.</p> <p>Waste Management Comment: <b>Textiles, carpets, wood, lumber, fiber, biosolids, digestates and sludges are not generally included in commercial or residential SSO collection programs, and require different processing. Please clarify that this definition would not apply to SSO collection programs, and the context in which it would apply. Please also see comments above to definition of "Organic Waste", at Section xxxx1(37).</b></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>
4745	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Section 17402(a)(18.6): "Source Separated Organic waste" (1) means organics that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Source separated organics contain no greater than 10 percent of contaminants by weight.</p> <p>Waste Management Comment: <b>If SSO does contain more than 10% contamination by weight, does it then become MSW with no diversion requirement? Haulers should be able to dispose of contaminated organics, and charge customers accordingly. Please clarify the definition of SSO if it exceeds 10% contamination.</b></p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p> <p>CalRecycle staff will develop tools to assist in the implementation of the regulations.</p>
4746.1 000000 000004	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Section 17409.5.1. Organics Diversion at Mixed Waste Processing Facilities</p> <p>Waste Management Comment: <b>Are "Mixed Waste Processing Facilities", referenced in the title to this section, considered a High Diversion Mixed Waste Processing Facility"? This needs to be defined.</b></p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>
4746.1 999999 999998	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Section 17409.5.1. Organics Diversion at Mixed Waste Processing Facilities</p> <p>(a) On and after January 1, 2022, at least 50 percent of the organic waste received from mixed waste collection services, calculated on a monthly basis, shall be removed from the mixed waste organic collection stream and sent for additional processing or recycling. To determine compliance with this subdivision, the operator shall: (1) Establish a baseline monthly volume of organics in the incoming mixed waste organic collection stream by either:</p> <p>(A) Conducting an operation or facility specific waste characterization study of the incoming mixed waste organic stream to determine a baseline amount of organics in</p>	<p>The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.</p>

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		<p>the incoming mixed waste organic stream using current business methods; or, (B) Utilizing the latest statewide waste characterization study prepared by the Department. (b) On and after January 1, 2022, all of the source separated organic waste shall be sent for additional processing or recycling. (c) On and after January 1, 2025, at least 75 percent of the organic waste received from mixed waste collection services shall be removed from the mixed waste organic collection stream and be sent for additional processing or recycling, calculated on a monthly basis. To determine compliance with this subdivision, the operator shall: (1) Establish a baseline monthly volume of organics in the incoming mixed waste organic 12 collection stream by either: (A) Conducting an operation or facility specific waste characterization study of the incoming mixed waste organic collection stream to determine a baseline amount of organics in the incoming mixed waste organic collection stream using current business methods; or, (B) Utilize the latest statewide waste characterization study prepared and published by the Department. (d) Organics recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream shall not have more than 10 percent of contamination by volume prior to leaving the site. (e) The operator shall maintain records demonstrating compliance with this section. Waste Management Comment: <b>In the first sentence of subsection (a), "mixed waste collection services" should be changed to "mixed waste organic collection services"</b>.</p>	
4747	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.  Section 17409.5.1. Organics Diversion at Mixed Waste Processing Facilities  <b>Please clarify that MSW collected in jurisdictions which have a Source Separated Organic Waste Collection Service is not deemed "mixed waste collection services", or make the change noted in the comment above (i.e., change "mixed waste collection services" to "mixed waste organic collection services")</b>. From our meeting on February 9, we understand it is not CalRecycle's intent that these regulations apply to processors of MSW attempting to extract organics and recyclables, provided that the jurisdiction from which the material is generated has a SSOW collection program. Please confirm.</p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4748	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.  Section 17409.5.1. Organics Diversion at Mixed Waste Processing Facilities  We disagree with Subsection (d), which states "Organics recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream shall not have more than 10 percent of contamination by volume prior to leaving the site." If the final product complies with applicable compost requirements, why must the material leaving the initial processing site have 10% or less contamination? The 10% contamination threshold is rather arbitrary and does not seem to consider any advancements in technology that may be able to handle</p>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.

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		higher levels of contamination. Additionally, "site" and "size" thresholds are not defined. <b>If the final regulations include some type of contamination limit for outbound materials, we submit "site" should refer to the entire parcel of the permitted facility, and not a particular building or operation on the parcel.</b>	
4749	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Section 17409.5.1. Organics Diversion at Mixed Waste Processing Facilities <b>We feel the above language (See comment 4746.2, 4747, 4748) should be clarified as to the entities responsible for the above requirements (i.e., jurisdictions, haulers, and/or facility operators), and the consequences for not meeting these requirements.</b>	The comment is not germane to changes made to the regulatory text during the June 21st to July 17th formal comment period.
4750	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Sections 17409.5.2, 17409.5.3, 17409.5.6 and 17409.5.7 Waste Management Comment: These required measurements will create significant additional costs to processing facilities in the State, requiring additional compensation and increased costs to the consumer. Also, <b>we recommend adding flexibility for alternative methods as proposed by regulated entities and approved by the LEA.</b>	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 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.
4751	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Section 17409.5.4(a): Source-separated organics handling shall be kept separate from other solid waste streams. Waste Management Comment: We addressed this provision in our attached cover letter. Facilities currently exist, and Waste Management is planning new facilities, where SSO would be blended with organic materials processed out of MSW. Such operations are allowed under current permits and government agreements. <b>This provision should clarify that "handling" does not include processing of SSO with organics extracted from other waste streams.</b>	This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.
4752	Oseguera, Waste Management	This comment is from a letter written in February of 2018, but submitted during the 15 day comment period. Sections 17409.5.5, 17867, 17896.25.1 and 20901 (Title 27) Waste Management Comment: These load checking requirements will create significant additional costs to our processing facilities requiring additional	This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.  Regarding the loadchecking:

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		<p>compensation. <b>As stated previously, these draft regulations need to clearly articulate that such additional costs will be recovered by the impacted processing facilities.</b> Payment could come from the jurisdiction and/or generators.  Regarding 17409.5.5, will the load checking requirements apply to both transfer and processing facilities? It should only apply to one.</p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.</p>
4753	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.  Draft Amendments to Existing Title 27 Regulations  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.  Waste Management Comment: What is the basis for the 36-inch compacted earthen material requirement? What performance criteria were used? Waste Management submits there are equally, if not more, effective performance based means to accomplish the same emissions reductions. CalRecycle should require performance based metrics and allow the landfill operator to determine the best technology or means to achieve the performance limits. For example, a requirement for the landfill operator to prevent emissions greater than 500 ppm of methane around the gas extraction well and 25 ppm on a surface scan rather than dictating a certain thickness of Intermediate cover would be more practical and actual demonstrate surface monitoring programs.</p>	<p>Comment noted, this comment is not directed at changes made to the second draft of regulatory text.</p>
4754	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.  Section 20750.1: (a) For new or expanded solid waste disposal sites: (1) The operator shall implement organics recycling activities, as approved by the EA, Organics recycling 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. (A) Receipt of solid wastes that have already been sufficiently processed to remove organics may be sent directly to the working face for disposal. (b) For the purposes of this section "organics recycling activities" means activities or facilities that 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. (c) For the purposes of this section "sufficiently processed" means solid waste that was handled at a facility that meets or exceeds the standards of sections 17410.5 and 17410.5.1 of title 14 of the California Code of Regulations.  Waste Management Comment: Clarification of the minimum level of service requirements would be useful for this section. As stated previously, these draft regulations need to clearly articulate that additional costs related to these</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>

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		requirements will be recovered by the impacted processing facilities. Also, CalRecycle needs to consider how these draft regulations will negatively impact needed infrastructure development due to permitting delays.	
4755	Oseguera, Waste Management	<p>This comment is from a letter written in February of 2018, but submitted during the 15 day comment period.</p> <p>Section 21695(a): Any operator of a solid waste disposal site shall submit a Status Impact Report (SIR) to CalRecycle that provides an analysis of the potential impacts to the disposal site resulting from the implementation of the organic disposal reduction requirements of Public Resources Code, §42652.5.</p> <p>Waste Management Comment: <b>The five year JTD review would suffice, and suggest removing.</b></p>	Comment noted. This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.
4385	Oster, Compology	For decades, communities and haulers have used (infrequent) container audits, informative stickers and placards, and fines and penalties to drive the right behavior. Results are self-evident. What's really needed, and is proven effective, is ongoing <b>monitoring</b> and <b>feedback</b> to the customer. The Recycling Partnership has numerous studies and programs on single-family home recycling that support this. Compology sees it at work everyday, as well, in the commercial and multi-family housing sectors. Ongoing monitoring and feedback, which can be accomplished manually or, more efficiently remotely, reduces contamination by 60% or more.	Thank you for the comment. The regulations include provisions for contamination monitoring of organic waste generators including commercial generators. The comment is not asking for a language change.
4386	Oster, Compology	Remote monitoring, unheard of a few years back, is enabled because of the growth and capabilities of IoT. It is wholly consistent with the regulatory package. Remote content monitoring and assessment empowers municipalities with the responsibility of enforcing SB 1383 with automated information and reporting to monitor generators to ensure separation of organics from the trash and improve contamination rates in recycling containers. Remote monitoring can ensure compliance with the law, provide feedback to change behavior and use of containers, assist hauling partners, and levy fees and penalties, when needed. Haulers can also receive information ahead of collection day to make necessary collection adjustments to pick up containers with the right truck (depending on content) and receive 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 IoT in bins and on trucks for assessing container contents.	Thank you for the comment. The comment is in support of remote monitoring which is currently in the regulations.
4387	Oster, Compology	SB 1383 regulations can and should mandate the <b>ongoing</b> monitoring of these commercial business trash bins to hold the commercial generators accountable for separating out organics as required by AB 1826. Mandatory <b>ongoing</b> monitoring will greatly aid municipalities to ensure organics are separated out by generators.	Thank you for the comment. The regulations include provisions for contamination monitoring of organic waste generators including commercial generators. The comment is not asking for a language change.

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4388	Oster, Compology	To address the burden of cost impact on commercial business generators for mandatory ongoing monitoring, we note that when generators have better information about the volume and content of trash they put into their containers, they can make better choices about the level of service they should subscribe to. Subscription service level decisions based on quality data can save generators 25% or more on their current waste collection costs, net of the cost of mandatory monitoring. Thus, a mandatory ongoing monitoring requirement should not be financially burdensome to commercial business generators subject to 1826.	Thank you for the comment. The regulations include provisions for contamination monitoring of organic waste generators including commercial generators. The comment is not asking for a language change.
4389	Oster, Compology	Moreover, the era of spreading costs for contamination and poor recycling habits across all generators should end and mandatory monitoring will aid such end. Generators that do the right thing, whether voluntarily or as mandated by 1383, should not 'share' costs that arise because of generators doing the wrong thing. <b>As an adjunct to the ongoing monitoring mandate, we request CalRecycle explicitly state that generators have a "right to remotely monitor" container contents in an effort to support their desire to recycle right, and comply with the law, and be protected by doing the right thing.</b>	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.
4390	Oster, Compology	The SB 1383 regulations should also recognize the GHG reductions benefit that they can accomplish. Presently, the waste and recycling industry experiences costs for inefficient use of driver time, waste auditors and scouts, customer service documentation, and the true cost of managing contaminated streams at transfer facilities and MRFs. This economic cost parallels closely with the enhanced GHG reductions of consistent monitoring and education, which we are currently documenting in a pilot project for the Bay Area Air Quality Management District (BAAQMD) in partnership with Livermore Sanitation, the City of Livermore, and StopWaste of Alameda County.	Comment noted. The regulations are limited in scope to reducing GHG emissions through the reduction in landfilling of organic waste consistent with the implementing statute.
4391	Oster, Compology	Project GHG emissions reductions depend on a baseline comparison. For the purposes of estimating GHG reductions, the BAAQMD project calculated avoided GHG emissions compared to the two most likely scenarios, and present a third in concept. SEE LETTER FOR BAAQMD PROJECT INFORMATION	Comment noted. The regulations are limited in scope to reducing GHG emissions through the reduction in landfilling of organic waste consistent with the implementing statute.
4392	Oster, Compology	<p>Minimizing Contamination</p> <p>With Compology, remote 'monitoring to minimize' contamination in commercial recycling (businesses and multifamily), has typically resulted in at least a 25% reduction of contamination in containers in just one month. This is an exceptional reduction in contamination. Further, we have seen that continued and ongoing daily monitoring over multiple months has reduced the number of contaminated containers by upwards of 60%. Imagine the avoided GHG emissions if all containers were equipped with Compology cameras.</p> <p>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>	Thank you for the comment. The comment is in support of current language.

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4393	Oster, Compology	<p>The language as currently drafted recognizes the absolute value of monitoring and recognizes that to achieve the requirements of 1383, 'monitoring to minimize' contamination is a necessity. However, we do request some clarification on <b>Section 18984.5. Container Contamination Minimization</b>. In Compology's experience, 'monitoring' and 'monitoring to minimize' contamination are 2 distinct and separate activities. <b>We'd like to have further clarification on the distinction between simply monitoring and 'monitoring to minimize' by defining 'monitoring to minimize' in the definitions section of the regulation.</b></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>
4394	Oster, Compology	<p>Often, effective feedback and imposition of necessary fines and penalties are not pursued because it's an expensive process to manually audit and document contamination. Consequently, collection rates can be higher on all generators as haulers need to cover the costs of managing contamination and they do this by making judgment calls about how many generators will have contaminated loads and charge rates accordingly. Remote monitoring brings an alternative. No longer are judgment calls required for estimating costs and rates. Instead, municipalities and haulers can use real, automated data to assess extra fees on those that should pay added fees. Since recycling service rates are often offered at a reduction to waste service rates, or free, generators should be held accountable for the privilege of the reduced service fee. At the same time, generators that are mindful of putting the right material in the right bin should be protected from paying too much. Remote monitoring also offers a much-needed alternative to "flip the lid" programs for assessing contamination in residential carts. Manual auditing for residential carts is far more expensive economically and environmentally due to the sheer number of residences compared to businesses in most areas. Manual auditing not only requires multiple trucks on the street but also a team of workers in often times less than safe working conditions.</p>	<p>Thank you for the comment. The comment is in support of remote monitoring which is currently in the regulations.</p>
4395	Oster, Compology	<p>Ongoing monitoring is the missing component to pushing better generator performance with respect to separating materials into the right containers. We believe that generators will behave far differently if they know their behavior is being monitored. To aid in monitoring, it is essential that if plastic bags are being used to collect organic waste, they should be transparent and/or clear bags so monitoring (whether manual or remote) can be done efficiently. While we have found that allowing customers to use plastic bags increases program participation, using clear plastic is essential for proper contamination monitoring, efficient handling and education to the customers. If a customer uses a plastic bag that is any color other than clear, it requires additional handling such as the physical opening of the bag to examine bag contents and determine contamination. This is not only inefficient and costly but a colored bag can be used to cover up purposeful contamination, whereas a clear plastic bag can not.</p>	<p>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. 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 plastic bags, 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.</p>



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4396	Oster, Compology	<p>We request the following amendment to the draft language.  <b>(d) A jurisdiction may allow organic waste to be collected in clear plastic bags and placed in the green container provided that the allowance of the use bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating that the facility can process and remove clear plastic bags when it recovers source separated organic waste. The written notification shall have been provided within the last 12 months.</b></p>	<p>Comment noted. A change to the regulatory text is not necessary. 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. 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 plastic bags, 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.</p>
4228	Pardo, V., CRRC North	<p>Definitions for colored containers should include the option to “coax” the lid in order to meet the color compliance requirements. This would provide cost-savings while meeting the goal of uniformly colored lids. This option is especially relevant for commercial containers that currently use primarily black colored lids.</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. 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>

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			<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>
4229	Pardo, V., CRRC North	<p>Designated Source Separated Organic Waste Facility definition requires more clarity. It is unclear if recovery rate facilities that meet a 50% recovery rate between January 1, 2022 and December 31, 2024 are expected to demonstrate the same recovery rate after January 1, 2025. It is also unclear if this definition only pertains to those facilities managing material from jurisdictions under Performance-based compliance. Also, if these facilities become grandfathered in at 50% efficiency, does that mean jurisdictions can use these facilities when attempting to achieve compliance through a Performance-Based approach?</p>	<p>Facilities must meet the recovery efficiencies by the dates established in the regulation. Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024.</p> <p>The definition of “designated source separated organic waste recycling facility” in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards. Comment noted. In order to achieve the organic waste reduction targets established in statute, facilities identified as designated source separated organic waste recovery facilities must recover minimum levels of the organic content they receive on an rolling basis. The organic waste reduction target is a statewide target, not a facility or jurisdiction target. The recovery efficiency requirements are necessary to achieve the statewide target and appropriately mirror the levels of the statewide target. Further, baseline facility rates from 2014 do not exist for</p>

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			individual facilities and establishing such a rate would be infeasible for a new facility that did not exist in 2014.
4230	Pardo, V., CRRC North	Some form of organic material will always remain in material recovery fines. As a result, <b>we recommend that approved MRF fines that will be used for cover material contain no more than 10% by weight of organic materials.</b>	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.
4231	Pardo, V., CRRC North	<p>While we appreciate the new language for facility notification if able to accept compostable plastics or plastic bags, our members remain concerned that plastics of any variety are often contaminants at the facility level. Currently, it is almost impossible to distinguish between compostable and non-compostable plastics at the facility level. We also know that compostable plastic also does not always degrade easily over time.</p> <p>The conversation around the use of compostable plastics is especially important as we consider developing SB 1335 regulations and future legislation. It is fair to assume that more organics collection and handling will mean the possibility for more contamination, especially if generators are encouraged to use “compostable” cutlery or food containers.</p> <p>Compost and AD facilities need the flexibility to modify what materials they accept in the organic stream, depending on facility needs, especially as it pertains to contamination. Facilities should not be punished should they choose to not accept compostable plastic, even if at one time they did accept this material. This material, if not accepted, should not be considered “organic waste” in the residual stream sent for disposal.</p>	<p>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.</p> <p>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 plastic bags, 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).</p> <p>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.</p>
4232	Pardo, V., CRRC North	We seek clarity on where a two-container collection system falls under the regulations if the gray container does not allow for intentional comingling of organic waste? In this case, the gray container should not be required to be processed at a high diversion organic waste processing facility.	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 June 2019. 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.
4233	Pardo, V., CRRC North	Route is a common term that has several meanings depending on context. When gathering samples for waste composition studies on routes based on the number of generators, we interpret route to mean weekly. <b>We seek clarity that a route is based on generators from a weekly, not daily, route for the purposes of this section.</b>	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 evaluations 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. However, what constitutes a “hauler route” is dependent upon the designated itinerary or geographical configuration of the jurisdiction’s waste collection system. The

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			<p>jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. This is because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste.</p>
4234	Pardo, V., CRRC North	<p>We note that sample is used both for generator samples and for the 200-pound sample to measure for container contaminants. Some clarity here between the two kinds of samples would be helpful.</p>	<p>The sampling and sampling size are used in various places in this regulation and in existing regulations. Wherever the terms are used, the type and size of the sample is defined. Different sample sizes are appropriate for different processes and therefore it is problematic and unnecessary to codify a single definition of the term.</p>
4235	Pardo, V., CRRC North	<p>Finally, Section 17409.5.1 is referenced in Section 18984.5(e)(1). We see this section as the third pathway for meeting contamination minimization requirements. However, Section 17409.5.1 references both mixed waste and source separated processing and confuses the intent of this section.</p>	<p>Comment noted. The commenter is not requesting a specific policy change that would have a regulatory effect. The comment requests that the language defining designated source-separate organic waste facility be moved to elsewhere in the regulation. CalRecycle disagrees and believes more clarity is provided by including pertinent standards that apply to a designated source separated organic waste facility in the definition.</p> <p>Regarding the comment on returning good standing. A facility's qualification as a designated source separated organic waste facilities is determined on a rolling annual average threshold. The determination occurs every quarter and is self-executing. A facility either meets the threshold or not. It is unnecessary to establish a specific process for a facility to return to its status.</p> <p>CalRecycle will inform jurisdictions implementing a performance-based source-separated organic waste collection service if the facility they select is no longer a designated source separated organic waste facility. 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> <p>Comment noted. CalRecycle agrees with the premise of the comment that facilities should not have an overall facility rate and the recovery rate should be specific to the type or organic waste collection stream handled. Notably, the definition of a designated source separate organic waste facility includes:</p> <p>"a "transfer/processor," as defined in Section 18815.2(a)(62), that is in compliance with the reporting requirements of Section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to Section 18815.5(f) for organic waste received from the source separated organic waste collection stream." (emphasis added).</p> <p>Per section 17409.5.5, recovery from the source separated organic waste collection stream is conducted separately, and per 17409.5.6 organic waste must be kept separate from other solid waste streams. CalRecycle will provide guidance as the regulations are implemented.</p>

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4236	Pardo, V., CRRC North	As it pertains to labeling prohibited container contaminants, that is a changing stream and it may not be prudent to indicate all prohibited contaminants. We seek flexibility and understanding that not all items will be captured in the labels.	<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> <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>

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			<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>
4237	Pardo, V., CRRC North	<p>We believe CalRecycle may need to offer a case-by-case waiver for situations not yet considered in the proposed regulations. One example is for communities impacted by bears but not at the elevation in the proposed elevation waiver. Another important example is for low-income communities that may not have the financial capacity to meet the obligations of SB 1383.</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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 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 &lt;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.</p>

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			<p>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>
4238	Pardo, V., CRRC North	Finally, we seek clarity that material disposed under emergency circumstances, abatement and quarantined materials will not count toward organic disposal.	The regulations state that a jurisdiction may dispose of organic waste in an emergency situation without being subject to penalties. Emergency disposal is not factored into recovery efficiency measurements at high diversion facilities. The organic waste will still count as statewide disposal.
4239	Pardo, V., CRRC North	We very much appreciate the expansion of organic waste products available to comply with Section 18993.1. We strongly urge CalRecycle to include an additional pathway, similar to Section 18983.2, that would allow for the determination of future eligible recovered organic waste products.	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. 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.
4240	Pardo, V., CRRC North	This Article is an entirely new section that requires considerable stakeholder review and discussion, especially with the inclusion of a "remnant organic waste" limit in the gray container. We wholeheartedly support the ability to demonstrate compliance with SB 1383 through a performance-based approach but seek more clarity on the role of designated source separated organic waste collection facilities and gray container waste evaluations.	Comment noted. The provisions of this Article were subject to multiple rulemaking comment periods.
4241	Pardo, V., CRRC North	We also support a phase-in approach when providing service to generators: 80% by 2025 and 90% by 2030.	Comment noted. The minimum threshold of 90 percent was established to align with the statutory requirements to reduce organic waste disposal by 75 percent by the year 2025. Only

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			<p>requiring waste collection from 80 percent of generators would significantly decrease the likelihood that the state could achieve the organic waste reduction targets. Additionally, organic waste collection services that are established in Article 3 of the regulation are only authorized to issue waivers under the conditions prescribed in Section 18984.11. Jurisdictions that implement a performance-based source separated organic waste collection service may waive up to 10 percent of commercial and 10 percent of residential generators at their discretion. The purpose of authorizing jurisdictions that provide performance-based source separated organic waste collection service to allow up to 10 percent of their commercial and 10 percent of their residential generators to forego service without the explicit granting of a waiver is to reduce a compliance burden for these jurisdictions that meet the alternative performance standards established in this section. Second, the waivers authorized under Section 18984.11 are anticipated to allow jurisdictions to waive up to 10 percent of their generators from the organic waste collection service requirements. Therefore, only requiring jurisdictions providing a performance-based source separated organic waste collection service to provide service to 90 percent of their generators provides parity with other jurisdictions.</p>
4242	Pardo, V., CRRC North	<p>We appreciate the changes to sampling frequency for the various measurement requirements but continue to recommend that the sampling occur over seven consecutive operating days, not ten.</p>	<p>A change to the regulatory text is not necessary. The sampling frequency of 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 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>



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			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.
4243	Pardo, V., CRRC North	This chapter includes the new language on Gray Container Waste Evaluations. This is an entirely new section that also necessitates considerable stakeholder review. We will be following up directly on this issue. <b>If this section remains, we strongly urge the following recommendations: Waste evaluations only occur for those jurisdictions attempting to show compliance with the Performance-Based approach – (75% recovery at processing facilities and 90% at compost facilities, no more than 25% remnant organic waste in the gray container).</b>	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4244	Pardo, V., CRRC North	This chapter includes the new language on Gray Container Waste Evaluations. This is an entirely new section that also necessitates considerable stakeholder review. We will be following up directly on this issue. <b>If this section remains, we strongly urge the following recommendations: The waste evaluation occurs twice a year, aligned with the container contamination minimization approach in Section 18984.5.</b>	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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. The purpose of this section is measure how much organic waste is collected in the gray container, as part of a three-container organic waste collection system. The purpose of the gray container waste evaluations 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.
4245	Pardo, V., CRRC North	This chapter includes the new language on Gray Container Waste Evaluations. This is an entirely new section that also necessitates considerable stakeholder review. We will be following up directly on this issue. <b>If this section remains, we strongly urge the following recommendations: The threshold for reporting by tons be raised as 1000 tons is completely unworkable at 5 evaluations per quarter. Some CRRC members have recommended we start at 10,000 tons. In fact, there should be no more than 2 evaluations per jurisdiction, per quarter.</b>	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4246	Pardo, V., CRRC North	This chapter includes the new language on Gray Container Waste Evaluations. This is an entirely new section that also necessitates considerable stakeholder review. We	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting

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		will be following up directly on this issue. <b>If this section remains, we strongly urge the following recommendations: Avoid duplicative reporting if this is happening at both the MRF/transfer station and the landfill.</b>	requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4247	Pardo, V., CRRC North	Gray Container Waste Evaluations The way this section is currently drafted would result in duplicative waste evaluations at the MRF/transfer station and then again at the landfill. What is the intent of this section as it pertains to the goals of CalRecycle? The focus of SB 1383 should be first and foremost on the organic containers. <b>As currently drafted, this is more rigorous than the sampling required to track the blue, green, and brown container contamination.</b>	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
4248	Pardo, V., CRRC North	Facilities should have the option to loadcheck their gray container to estimate the amount of remnant organic material in a jurisdiction's stream in lieu of this costly approach. CalRecycle can use their waste characterization studies to achieve other gray container characterization goals.	CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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.
4249	Pardo, V., CRRC North	We appreciate the addition of Section 17409.5.10.5 regarding organic waste derived from a mixed waste organic collection stream and transferred for further processing on-site. We read this section to mean that source separated collection streams are not subject to Section 17409.5.1 through Section 17409.8 if transferred for further processing to a facility on-site.	CalRecycle has revised the proposed regulations text dated January 18 during the 45-day comments in response to comments 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. 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.
4250	Pardo, V., CRRC North	What is the intent of Section 17896.57 in forcing digestate to be further processed by a facility that meets the standards of the Designated Source Separated Organic Waste Facility? This seems unnecessarily restrictive and creates additional barriers for these kinds of facilities to exist. <b>We urge you to remove this new provision.</b>	A change to the regulatory text is not necessary. Section 17896.57 specifies digestate must go to a compost facility that demonstrates that the organic waste sent to disposal is no more 20% on and after 2022 and 10% on and after 2024 or a transfer/processing facility or operation that has no more than 20% of incompatible material on and after 2022 and 10% on and after 2024 that is destined for disposal, not a designated source separated organic waste facility. The designated source separated organic waste facility are facilities that a jurisdiction can send their waste to in order to meet the performance-based source separated organic waste collection service.  The purpose of this section is to ensure that digestate that needs further processing is sent to facilities that comply with the incompatible materials limit specified in Section 17409.5.8. This is

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			<p>necessary because these facilities effectively meet the recovery efficiency standards set forth by SB 1383 since the material sent for recovery by transfer/processing facilities or operations will ultimately be at least 80% organic on and after 2022 and 90% on and after 2024 and material sent for disposal by compost facilities will be no more than 20% on and after 2022 and 10% on and after 2024.</p>
4251	Pardo, V., CRRC North	<p>When measuring for remnant organic material in gray container waste evaluations, textiles and carpet should <b>not</b> count toward the 25% or be otherwise counted against the facility as it pertains to disposal of that material.</p> <p><b>Want to reinforce the regulatory language that, “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.”</b></p>	<p>A change to the regulatory text is not necessary. Yes, you are correct for the organic waste collection service, Section 18984.1(b) states that a jurisdiction will not be out of compliance with Section 19898.1 (a) if their organic waste collection system allows carpet and textiles to be placed in the gray container. However, carpets and textile found in a gray container during the gray container waste evaluation as specified in Section 17409.5.7 would be considered remnant organic waste. The purpose of the gray container waste evaluations 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>
6243	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>Because of the prescriptive nature of SB 1383, SAFE suggests that, rather than cross referencing definitions to other regulations, to include the full definition of each term in SB 1383, Article 1.</p>	<p>Comment noted. CalRecycle disagrees with the approach of restating each definition. Cross referencing definitions in existing CalRecycle regulations ensures that definitions across applicable CalRecycle regulations remain consistent as regulations are updated.</p>
6244	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>Section 18984.1. Three-container Organic Waste Collection Services – Suggested Ammendment: (6) A jurisdiction may require additional segregation of source separated organic waste by providing <b>additional</b> containers or additional sections of split containers in addition to the green container and <b>blue container</b>. <b>The following types of additional containers can be provided pursuant to this paragraph.</b> (A) <b>A brown container, or a brown section of a split container that is limited to the collection of separated food waste.</b></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 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. 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>
6245	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>Section 18984.1. Three-container Organic Waste Collection Services – SAFE appreciates CalRecycle recognizing that some organics diversion technologies necessitate separation of organic food material from other organics, specifically</p>	<p>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</p>

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		<p>yard trimmings. SAFE's commercial and residential collection partners will be collecting SAFE feedstock in this fashion most of the time. Since SB 1383 rulemaking has been in process for some time, multiple contract negotiations have taken place across the State and SAFE has partnered with collection companies that have ordered yellow collection containers in an effort to comply with the impending SB 1383 regulation. Since both yellow and brown are a widely accepted color for organics collection, and additional segregation programs tend to be unique, we suggest CalRecycle accept brown or yellow and amend the regulatory language to read:</p> <p><b>(A) A brown or yellow container, or a brown or yellow section of a split container that is limited to the collection of separated food waste.</b></p> <p><b>(d) A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that the allowance of the use bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste. The written notification shall have been provided within the last 12 months.</b></p>	<p>bagged collection. Bags are allowed in the three or two container systems as long as the facility can process and remove the bags.</p> <p>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 plastic bags, 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).</p> <p>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. 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. 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>
6246	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>SAFE has been processing organic food material feedstock for input into its food waste to animal feed technology for several years and always requires clear plastic bags to be used for organics. While we have found that allowing customers to use plastic bags increases program participation, using clear plastic is essential for proper contamination monitoring and education to the customers. If a customer uses a plastic bag that is any color other than clear, it requires additional handling such as the physical opening of the bag to examine bag contents and determine contamination. This is not only inefficient and costly but a colored bag can be used to cover up purposeful contamination, whereas a clear plastic bag cannot. As such, we request the following amendment to the draft language.</p> <p><b>(d) A jurisdiction may allow organic waste to be collected in clear plastic bags and placed in the green container provided that the allowance of the bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section</b></p>	<p>Comment noted. A Change to the regulatory text is not necessary. 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.</p> <p>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 plastic bags, 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).</p>

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		<p><b>18984.5, and the facilities that recover source separated organic waste for the jurisdiction provide written notice to the jurisdiction indicating that the facility can process and remove clear plastic bags when it recovers source separated organic waste. The written notification shall have been provided within the last 12 months.</b></p>	<p>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.</p>
6247	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>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.</p> <p>(f) For the purposes of this article, the recovered organic waste products that a jurisdiction <b>may procure to comply with this article are</b></p> <p>(1) Compost, <b>subject to any applicable limitations of Public Contract Code Section 22150, that is produced at:</b></p> <p><b>(A) A Compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this Division; or</b></p> <p><b>(B) A Large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</b></p> <p>(2) Renewable gas used for fuel for transportation, electricity, heating applications, or pipeline injection,</p> <p><b>(3) Electricity from biomass conversion.</b></p> <p>SAFE strongly suggests that CalRecycle consider including other organics derived commodities in the procurement requirements listed above. These regulations will be sending a strong signal to the marketplace and will influence contract negotiations. The organics processing and commoditizing industry sector is in its infancy in the US and especially California. These organics projects carry a level of risk that walks a delicate balance between investable and not. As such, all forms of revenue must be accounted for, including commodity sales, and even the slightest fluctuation in the security of that revenue can influence a project’s viability. We believe that choosing specific organics derived commodities for local governments to procure puts CalRecycle in the position of choosing winners and losers, and threatens innovation. In a world where technology is rapid and constantly changing, these regulations should not restrict the types of technologies used to derive any number of commodities made available by recycling the organic waste stream.</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. 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>
6248	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>SAFE suggests not restricting the procurement requirements at all, and instead allow the local government to decide, based on the technology available in their jurisdiction, which organics derived commodity to procure.</p> <p>However, if CalRecycle cannot simply allow for the procurement of any available organics derived commodity in the marketplace, then we recommend that CalRecycle design a streamlined pathway for local governments to gain approval for the procurement of unlisted organics derived commodities.</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. 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>

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		<p>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 <b>Section 18983.2. Section 18983.2: Verification Determination of Technologies That Constitute a Reduction in Landfill Disposal</b>, outlines a procedure for applying for qualification as a diversion facility.</p> <p>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>	
6249	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>(h) Renewable gas procured from a POTW may only count toward a jurisdiction’s organic waste product procurement target, if the following apply:</p> <p><b>(1) The POTW actively receives organic waste from a permitted solid waste facility in a manner that conforms with the requirements of Section 17896.6(a)(1)</b></p> <p>It would seem fair and equitable to measure the renewable gas from a POTW that is only attributable to organic material covered under this regulation. Perhaps this can be measured using historical data for a qualifying POTW facility that is co-digesting food waste and biosolids, but only digested biosolids prior to introducing additional organic feedstock as a result of SB 1383. Or, CalRecycle could limit the procurement requirement to POTW’s using “stand alone” anaerobic digesters. As discussed above, it is important that organics processing technologies have fair and equitable access to the marketplace, and these procurement requirements should not give preference to one technology over another. We recommend the following language be added to this section of the regulation:</p> <p><b>(2) The POTW uses a stand-alone digester for organic waste collected as a result of program implementation under this Division</b></p>	<p>CalRecycle has revised section 18993.1(h) to clarify that a jurisdiction may procure renewable gas resulting from the eligible organic waste received from solid waste facilities at a POTW. The intent is to attribute the renewable gas to the diverted organic material. However, CalRecycle disagrees with the commenter’s recommendation to limit POTW gas procurement to standalone digesters. This would be overly burdensome for jurisdictions and difficult for the department to enforce.</p>
6250	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>Section 18984.13 - Emergency Circumstances</p> <p>We would like to point out that, in an emergency circumstance, CalRecycle should require that preference be given to a contingency measure that still guarantees diversion. We would request that before brining material to a landfill in the event of an emergency, collectors of food material should give preference to organics diversion facilities within a reasonable radius. Landfilling should always be a last resort, even in the case of an Emergency.</p>	<p>The existing regulatory provisions cited in the emergency waiver (Sections 17210.4 and 17210.9) already include provisions that require diversion first.</p>
6251	Pellegrini, L., Sustainable Alternative Feed Enterprises (SAFE)	<p>Article 11 - Organic Waste Capacity Requirements</p> <p><b>This section should require jurisdictions to reach out to all available organics diversion facility operators in their jurisdiction to determine capacity. This section seems to give preference to certain organics diversion technologies over others. We request that CalRecycle simply reference the approved organics diversion facilities to capture each of the approved technologies for capacity planning purposes.</b></p>	<p>Comment noted. The subsection only provides examples of allowable technologies but does not preclude others from being considered or evaluated.</p> <p>The regulations include a requirement for consultation with relevant entities including jurisdictions, community composting operations, and edible food recovery services and organizations.</p>

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8066	Potashner, Eric Recology Waste Zero inc.	<p>Section 18984.1(a)(1)(A) and (d) Compostable Plastics</p> <p>Recology agrees that certified compostable plastics should be accepted into a collection program at the discretion of the receiving Compostable Material Handling Operations and Facilities. Compostable plastics (including bags) can be effective at promoting customer adoption of proper source separation, reducing food waste disposal, and increasing recycling. However, the production of high-quality compost without contamination is a critical step towards a complete organic recovery infrastructure, and compostable plastics require additional investments in processing to avoid contamination. Jurisdictions, haulers, and organics processors should work together to determine if compostable plastics are the best solution for their community.</p>	<p>Thank you for the comment. Part of the comment is in support of the current language. Existing Public Resources Code already specifies that that all compostable plastic products be labeled “compostable,” with reference to applicable standard specifications, including ASTM D6400 and D6868.</p> <p>Nothing precludes a jurisdiction from requiring compostable plastic to meet third party requirements in addition to those in Sections 18984.1(a)(1)(A) and 18984.2(a)(1)(C). CalRecycle will clarify this in the FSOR.</p> <p>In regards to eliminating compostable plastics, CalRecycle determined that it would be acceptable if these materials are placed in green or blue containers if the materials meet appropriate standards and the receiving facility accepts the materials for purposes of recycling. Nothing in the regulations precludes a jurisdiction from limiting these materials and nothing precludes a facility from not accepting these materials. While it is not clear that rigid compostable plastics can be readily used in composting operations given the timeframes needed for the materials to decompose, there may be technology changes in the future that allow rigid compostable plastics to be recycled/composted more readily.</p>
8067	Potashner, Eric Recology Waste Zero inc.	<p><b>The Department could consider adding to Section 18985.1, Organic Waste Recovery Education and Outreach, a requirement that jurisdictions that elect to accept compostable plastics in their collection programs educate their generators on proper identification and placement of compostable plastics. A further requirement could be added that jurisdictions that do not accept compostable plastics in their collection programs educate their generators on that prohibition.</b></p>	<p>It is not necessary to dictate this level of detail in education and outreach requirements for optional aspects of collection programs.</p>
8068	Potashner, Eric Recology Waste Zero inc.	<p>Section 18984.1(f) Transport to Consolidation Site</p> <p>Section 17409.5.10 indicates that material from consolidation sites must be transported to transfer/processing facilities or operations that comply with Section 17409.5.1. See comments below on 17409.5.1. Please clarify that collection programs that are compliant with Section 18984.1, which are maximizing diversion at the point of generation, should be able to consolidate material at consolidation sites and then transfer that material to a facility that recovers source separated organic waste, as defined in Section 18982(a)(20).</p>	<p>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.</p>
8069	Potashner, Eric Recology Waste Zero inc.	<p>Section 18984.5(c)(1) Container Contamination Minimization – Waste Evaluation</p> <p>Are the quantities of samples required by Section 18984.5(c)(1)(D)(1-4) intended to refer to the number of containers that are collected from each sampled route (i.e., 25 green containers and 25 blue containers from Route A, which has less than 1,500 generators)? And one 200-pound samples would be taken from each of the accumulated sampled green container material and accumulated sampled blue container material for the jurisdiction?</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. The commenter is correct. The samples taken from hauler routes as described in 18984.5.(c)(1)(E) do not need to be 200 pounds. Those samples must collectively add up to a total of 200 pounds collected from each container stream for the samples conducted per Section 18984.5(c)(F).</p>
8070	Potashner, Eric Recology Waste Zero inc.	<p>Section 18994.2(d)(2) Reporting – Emergency Circumstances Waiver</p> <p>Given the complexity of the response and clean-up required for disasters, Recology supports the Department’s willingness to provide flexibility and relief to affected</p>	<p>CalRecycle has revised Section 18994.1(d) in response to this comment. The revision will include an exception for reporting organic waste that is disposed as a result of a disaster/emergency waiver.</p>

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		<p>communities. If a jurisdiction is granted an emergency circumstances waiver for a disaster as allowed in Section 18984.13(b), it is unlikely that the amount of organics tonnage disposed will be able to be quantified as requested in Section 18994.2(d)(2), due to the nature of the disaster debris cleanup and the temporary cessation of organic waste collection requirements permitted by Section 18984.13(b)(2). <b>The Department should consider adding an exception to this tonnage reporting requirement for waivers granted under Section 18984.13(b) for the duration that the waiver is in place.</b></p>	
8071	Potashner, Eric Recology Waste Zero inc.	<p>Section 17402(a)(0.5) Consolidation Sites Please clarify whether consolidation sites include transfer stations that fall under the definition of Transfer/Processing Facility (Section 17402(a)(30)) for the purpose of solid waste facility permitting but that do not conduct any processing activities. It would be consistent with the sampling requirements of Sections 17409.5.1 – 17409.5.9 to conduct sampling activities at the location where the material is being processed, not where it is being consolidated only. The throughput tiers that influence permitting would presumably have no bearing on the percentage of organic waste diverted.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>
8072	Potashner, Eric Recology Waste Zero inc.	<p>Similar to solid waste facility permitting and reporting requirements, it is important to leave open the possibility that one facility may undertake multiple activities on one site. For example, one facility could consolidate organic waste for transfer to a composting facility, where it would then be processed and sampled, and at the same facility the gray container waste evaluations could be conducted on the gray container collection stream. In this case, the requirements of Sections 17409.5.1 – 17409.5.6 would not apply to this facility (rather to the ultimate composting facility), but the requirements of 17409.5.7 would apply.</p>	<p>CalRecycle has revised the proposed regulations 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. 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>
8073	Potashner, Eric Recology Waste Zero inc.	<p>Section 17409.5.1 Organic Waste Recovery Efficiency Please add language clarifying that Section 17409.5.1 refers to all facilities processing organic waste, not only facilities that have to meet an organic content recovery rate. <b>The Department should consider revising (c) to read “The operator [of a facility receiving a mixed waste organic collection stream] shall” and (d) to read “The operator [of a facility receiving a source separated organic waste collection stream] shall”.</b></p>	<p>A change to the regulatory text is not necessary. Section 17409.5.1 states that this section applies to transfer/processing facility and operations that conduct processing activities. Therefore, this section already covers solid waste operations and facilities that must comply with the requirement.</p>
8074	Potashner, Eric Recology Waste Zero inc.	<p>Sections 17409.5.4 and 17409.5.5 – Source Separated Organic Waste Collection Stream Sampling These sampling requirements are an improvement on the previous draft’s loadchecking requirements, and we appreciate the Department hearing our concern. Please confirm that it would not be possible to lower the sampling frequency to 5 days a quarter and/or a 50-pound sample, maintaining the requirement that the EA may request a higher sampling frequency as deemed necessary.</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>



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			<p>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>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>
8075	Potashner, Eric Recology Waste Zero inc.	<p>Section 17409.5.7.1 Gray Container Waste Evaluations – Frequency</p> <p>Recology understands that the Department is interested in characterizing the gray container collection stream to account for all possible sources of disposed organic waste. However, the frequency of waste evaluations as proposed would be burdensome on both transfer stations and landfills. Transfer stations would need to dedicate a portion of their operating area to conducting these evaluations that would not interfere with ongoing operations. Landfills would need to set aside a portion of their operating area for their own staff and other haulers to conduct waste evaluations. For example, if all jurisdictions that hauled to Recology Hay Road in 2018 decided to sample at the landfill, there would be upwards of 900 waste evaluations required per year. Our landfills do not currently have a designated area where such waste evaluations could be conducted.</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills and revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>
8076	Potashner, Eric Recology Waste Zero inc.	<p>Section 18083(c) EA Inspection of Land Application Sites</p> <p>Recology is supportive of the proposed language supporting increased inspection of land application sites by CalRecycle and Local Enforcement Authorities. 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 believes that only with oversight, recordkeeping, and communication can abuse of land application practices be prevented.</p>	<p>CalRecycle has deleted Section 18083(c) in response to comments.</p>
8077	Potashner, Eric Recology Waste Zero inc.	<p>Section 20901 Gray Container Waste Evaluations – Location</p> <p>Please clarify that the gray container waste evaluations for material that is not direct hauled should occur at either the transfer/processing facility or the landfill, not both, depending on the needs of the jurisdiction, hauler, transfer/processor, and landfill operator.</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
8078	Potashner, Eric Recology Waste Zero inc.	<p>Section 21695 CalRecycle – Organic Disposal Reduction Status Impact Report</p> <p>Landfill gas generation and control must be designed to meet the regulatory requirements of the Regional Water Quality Control Board, the local Air District, and the U.S. Environmental Protection Agency. It seems that a statewide or regional analysis evaluating these existing regulatory controls may be more effective than requiring each individual landfill to provide information for the Department to evaluate.</p> <p>For intermediate cover to be as effective as final cover, our landfill operators would likely have to line intermediate faces with the type of liner used for final cover and then remove the plastic liner when disposal needs and landfill design warranted returning to that area. This would result in repetitive, costly liner projects that are</p>	<p>CalRecycle has revised Section 21695 in response to comments. This section was revised to deleted Subdivision (i), removing the requirement for operators to conduct an impact analysis of the effectiveness of intermediate cover compared to final cover and develop a plan for intermediate cover to be as effective as final. This was necessary to lessen the operator's burden.</p>

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		largely unnecessary due to the extensive landfill gas collection requirements in place at our landfills.	
1070	Prinz, William, City of San Diego Local Enforcement Agency	<p>Section 18982. Definitions: (14.5) "Designated Source Separated Organic Waste Facility" (DSSOWF)-</p> <p>How will this definition be addressed in the Solid Waste Facility Permitting (SWFP) process described in 27CCR? Will the DSSOWF become a permit condition or RFI requirement or is this designation recognized through some other process to verify that the organic content recovery rates are being met?</p> <p>If a composting operation determines to become a DSSOWF it will have filed an Enforcement Agency Notification (EAN) rather than a SWFP. Since a composting operation in the EAN tier has no permit conditions or Report of Facility Information (RFI) to govern its operation what regulatory tool will be used to determine it meets the definition of a DSSOWF?</p>	Comment noted. CalRecycle will determine whether a facility meets or exceeds the recovery thresholds necessary to be indented as a "designated source separated organic waste recycling facility." This will be based on data facilities report to CalRecycle via RDRS as a part of their sampling. The designation acknowledges achievement of a specified recovery rate for the source separated organic waste received by the facility, it does not require a specific action or permit modification by the facility operator.
4322	Reynolds, City of Blythe	The language of the Proposed SLCP Regulations prepared by the Department of Resources Recycling and Recovery, issued on June 17, 2019, severely impacts the City of Blythe negatively without a means to comply with the time bound requirements of these regulations. It should be noted during the earlier 45 day comment period of the proposed regulations, various parties, representing the interests of the City of Blythe introduced oral and written comments and testimony imploring CalRecycle staff to consider a hardship waiver or exemption for low income, disadvantage communities, such as the City of Blythe. The City of Blythe has no standing or options for relief pursuant to Article 3, Section 18984.12 Waivers and Exemptions Granted by the Department (re: Page 29 et. Seq.).	The commenter is making a statement that it is unable to comply with the regulations and is not requesting a change in the regulatory language.
4323	Reynolds, City of Blythe	<p>The City of Blythe is disproportionately burdened and cannot comply with the regulations for the follow reasons:</p> <p>According to the Department of Finance E-5 Population Estimates (1/12/2019) the City of Blythe total population is 19,428: comprised of 13,643 households (3.05 persons per household), and 5,785 Group Quarters (State Prisoners). This negates the low population waiver of Section 18984.12(a)(1)(A). Further, given the requirements of Article 12, Section 18993.1(a)(1) regarding per capita procurement targets the 0.08 tons of organic waste per California resident per year the City of Blythe is disproportionately affected negatively by the inclusion of 5,785 prisoners in the DOF 2019 population numbers (total population). The proposed per capita formula discriminates and impact the 13,643 households without recourse (i.e. Blythe has no power to enforce the procurement requirements upon the State Prisons).</p> <p>It should be noted that the City of Blythe will have to procure 2.25 times more organic waste products (compost) than the city generates for diversion and disposal.</p>	The commenter is making a statement that it is unable to comply with the regulations and is not requesting a change in the regulatory language.
4324	Reynolds, City of Blythe	<p>The City of Blythe is disproportionately burdened and cannot comply with the regulations for the follow reasons:</p> <p>The City of Blythe is not a "Rural Jurisdiction" as referenced in Section 42649.8 of the Public Resources Code and cannot meet the requirements of this waiver.</p>	The commenter is making a statement that it is unable to comply with the regulations and is not requesting a change in the regulatory language.

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4325	Reynolds, City of Blythe	<p>The City of Blythe is disproportionately burdened and cannot comply with the regulations for the follow reasons:  The elevation for the City of Blythe is 272 feet above sea level. Section 18984.12(d)(1) allows for elevation waivers for jurisdictions at or above 4,500 feet. The City of Blythe cannot avail itself of this waiver.</p>	<p>The commenter is explaining why it does not qualify for the elevation waiver and cannot comply with the regulations and does not request a change in the regulatory language. Comment noted.</p>
4326	Reynolds, City of Blythe	<p>The City of Blythe is disproportionately burdened and cannot comply with the regulations for the follow reasons:  There are no composting and or chip and grind facilities within 100+ miles of the City of Blythe. Pursuant to AB 876, the County of Riverside has not declared its intent to establish an organics waste processing facility near the Blythe area. The lack of organics waste infrastructure has prevented the development of source separated curbside organic waste collection and processing. As noted in the following Disposal Data Review, the consistent low volume of disposed organic waste will not support the implementation of an organic waste diversion program for the City of Blythe for the foreseeable future. The only relief that could be available might come from special GGRF grant funding.</p>	<p>The commenter is making a statement that it is unable to comply with the regulations and is not requesting a change in the regulatory language. The regulations do not require a source separated organic waste collection system. Jurisdictions may use a single container collection system as long as that waste goes to a high diversion organic waste processing facility, which may include transfer stations.</p>
4327	Reynolds, City of Blythe	<p>See comment letter for data tables.</p>	<p>The commenter is making a statement that it is unable to comply with the regulations and is not requesting a change in the regulatory language. The regulations do not require a source separated organic waste collection system. Jurisdictions may use a single container collection system as long as that waste goes to a high diversion organic waste processing facility, which may include transfer stations.</p>
4328	Reynolds, City of Blythe	<p>The tonnage numbers in this table represent the total volume of the City of Blythe mixed organics disposed. These values also serve as the threshold values for potential organic diversion.  At the present time, there is not enough organic tonnage suitable to support a compost or AD facility. Trucking separated organic waste to the closest facility, a hundred miles, away is not feasible. It is unrealistic to assume that the high cost per ton ratio should be borne by the rate payers of this low-income disadvantaged community. The cost/benefit ratio is obviously skewed in the wrong direction.</p>	<p>The commenter is making a statement that it is unable to comply with the regulations and is not requesting a change in the regulatory language. The regulations do not require a source separated organic waste collection system. Jurisdictions may use a single container collection system as long as that waste goes to a high diversion organic waste processing facility, which may include transfer stations.</p>
3164	Romanow, K., City of San Jose	<p>Article 2: Recovery Options:  1. Recommendation: Clarify whether non-landfill use of organic waste for soil amendments constitutes a reduction of landfill disposal in Section 18983.1(b). The City of San Jose is currently developing an alternative disposition program for the RWF's biosolids that does not include landfills. Drying (either air or heat drying) and heat treatment are some options being considered for a portion of the RWF's biosolids. The resulting products could be used as soil amendments and/or fertilizers, both would help with carbon sequestration in soils and reduce the atmospheric levels of GHGs. However, use of such treatment processes that result in products that are ultimately applied to land might not be consistent with Section 18983.1 (b) as currently written.  Section 18983.1(b)(5) states that organic waste used as a soil amendment shall only be deemed a reduction in landfill disposal if "used as a soil amendment for erosion</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<sub>2</sub>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.</p>

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		control, revegetation, slope stabilization or landscaping at a landfill." Section 18983.1(b)(6)(B) discusses biosolids used for land application and references Part 503, Title 40 of the Code of Federal Regulations which allows other processes, not only anaerobic digestion or composting, to produce biosolids suitable for land application. Thus, it is unclear if those processes other than anaerobic digestion and composting are also acceptable methods for producing biosolids for land application.	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 <sub>2</sub> e 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 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.
3165	Romanow, K., City of San Jose	<p>Article 3: Collection Services.</p> <p>We appreciate and strongly support the new language (for a three-container and two-container organic waste collection services) that un-containerized green waste and yard waste collection service is an acceptable method for collecting source-separated yard trimmings year-round. Since 2002, San Jose residents set out source-separated yard trimmings in two ways: in on-street piles that are collected by a claw tractor and rear loader vehicle, or in a green yard trimmings cart collected by a collection vehicle. Our on-street collection program is highly successful in terms of both participation and diversion. About two-thirds of San Jose's single-family dwelling households and a third of multi-family dwellings utilize the on-street collection services. Yard trimmings material collected from both on-street and cart collection is very clean (97 percent of yard trimmings collected in calendar-year 2018 were diverted) primarily due to the on-street collection method which greatly reduces contaminants that would otherwise be hidden inside yard trimmings carts. Yard trimmings are processed and become a high-quality compost.</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>
3166	Romanow, K., City of San Jose	<p>Article 4: Education and Outreach</p> <p>2. Recommendation: modify Section 18984.9 (e) Organic Waste Generator Requirements.</p> <p>If a business does not generate any of the materials that would be collected in <b>any</b> one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers <b>and the business does not have to subscribe to the collection service for that type of container.</b></p>	<p>For situations where the business' total solid waste 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 18984.11 to clarify the allowance of de-minimis waivers.</p> <p>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.</p>
3167	Romanow, K., City of San Jose	<p>Article 4: Education and Outreach</p> <p>Recommendation: modify Section 18985.1 (c) to provide information through print and/or electronic media.</p>	<p>Comment noted. The regulations are proposed for adoption two years prior to their effective date, providing CalRecycle time to educate jurisdictions and other regulated entities.</p>

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		<p>Printed direct-mail outreach is very costly, approximately \$50,000 for a postcard to city-wide single family dwellings alone, due to San Jose's large population size of over one million residents. <b>CalRecycle should modify the language to read: A jurisdiction may comply with the requirements providing the information required by this section through print or electronic media. In addition to providing information through print and/or electronic media a jurisdiction may conduct outreach through direct contact with generators through workshops, meetings, social media (i.e., Facebook Live), or on-site visits.</b></p>	
3168	Romanow, K., City of San Jose	<p>Article 4: Education and Outreach  Recommendation: modify Section 18985.1(e)(1) language requirements to match state election ballot guidelines for translations.  The proposed threshold would require up to twelve language translations in San Jose. <b>CalRecycle should modify the threshold from 10,000 persons or 0.5 percent to read 10,000 or 3.0 percent. The 3.0 percent matches state election ballot guidelines for translations (Elections Code§ 14201(d).) and would reduce San Jose's language requirement to five language translations.</b></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>
3169	Romanow, K., City of San Jose	<p>Article 9: Locally Adopted Standards and Policies  Recommendation: Revise Section 18990.1 to ensure that local jurisdictions do not arbitrarily restrict land application of biosolids as long as the land application is in accordance with federal and state regulations.  San Jose recently conducted a market assessment of potential biosolids disposition options within and around the Bay Area and conformed that there are beneficial reuse disposition options available but all have limited capacity during the wet weather season, generally from mid-October or November through mid-April. Capacity in Northern California is limited in part by dates subjectively set by some counties that restrict biosolids land application to specific dates, despite actual weather conditions. Allowing county ordinances with such date restrictions and onerous permitting requirements to persist will unnecessarily force many jurisdictions to travel further to land apply biosolids, resulting in an increase in GHG emissions, higher hauling costs, and possible deprive California of some of the benefits of biosolids land application if biosolids are hauled out-of-state.</p>	<p>The regulatory text has been updated to reflect stakeholder feedback. Section 18990.1 (b) (1) now reads: (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:  (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.</p>
3170	Romanow, K., City of San Jose	<p>Article 12: Procurement of Recovered Organic Waste Products  Recommendation: Consider a more realistic methodology/approach for calculating procurement targets in Section 18993.1(b).  The methodology for calculating procurement targets in Section 18993.1( b) is infeasible because it neither considers a jurisdiction's actual need nor meets the current infrastructure to produce allowable products. For example, based on the 2018 population data reported by the California Department of Finance, San Jose would be required to procure approximately 84,000 tons of recovered organic waste product per year. Not only is this beyond what is needed, CalRecycle's change from 0.07 tons to 0.08 tons of organic waste per California resident per year requires 10,000 more tons of unnecessary material. San Jose's actual total park</p>	<p>Regarding the procurement target and the increase from 0.07 to 0.08, a specified procurement amount is necessary for jurisdictions to measure compliance with Article 12, which is necessary to achieve the ambitious diversion targets required by SB 1383. The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from the department's Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.. Regarding the commenters' arguments about current infrastructure being unable to produce the needed end products, it is vital to note that the infrastructure available today does</p>

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		<p>acreage is 3,305, of which only 2 percent is suitable for compost application. Based on California Department of Food and Agriculture's recommended maximum compost application rate of 8 tons per acre, the City's total compost need is a maximum of 529 tons. CalRecycle's "SB 1383 Infrastructure and Market Analysis" Report states that the current compost producers do not have the infrastructure to produce the amounts needed to reach this goal. This report also stated that the current renewable gas producers also do not have the infrastructure to produce the amount of electricity needed for this current target. Information about renewable gas producers is very limited and accurate data about the production rates of electricity or fuels is not widely available. The infrastructure for electricity from organic waste biomass conversion is only offered from a handful of producers in the state which will potentially cause challenges with the large amount that would need to be produced. Neither fuel can be used for electricity or the residential solid waste vehicle fleet which is bound to compressed natural gas until 2036.</p> <p>While we recognize that creating market demand for products made from organic waste will be key to successfully driving these materials, the proposed procurement targets are unrealistic and will likely be infeasible for most jurisdictions. <b>We ask CalRecycle to consider offering a phased in procurement target with an initial target in 2022 significantly lower than the current target.</b> This will allow time for the production infrastructure of these products to increase with the demand.</p> <p>Suggested schedule: SEE LETTER FOR SUGGESTED SCHEDULE TABLE</p>	<p>not necessarily reflect the infrastructure that will be available in the future once the more than 20 million tons of organic waste required to be diverted are processed. Therefore, revising these regulations to accommodate current infrastructure and capacity of recovered organic waste products is not a forward-looking action and is contrary to the intent of Article 12 and SB 1383 diversion requirements.</p> <p>Regarding a phased-in approach, 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.</p>
3171	Romanow, K., City of San Jose	<p>Article 12: Procurement of Recovered Organic Waste Products  Recommendation: Clarify whether renewable energy purchased by a jurisdiction counts towards that jurisdiction's annual recovered waste product procurement target in Section 18993.1(f).  Section 18993.1(f) includes "renewable gas used for fuel for transportation, electricity, heating applications, or pipeline injection" and "electricity from biomass conversion" as recovered waste products allowed for procurement, but it is unclear if renewable electricity is captured by either Section 18993.1(f)(2) or Section 18993.1(f)(3). There may be jurisdictions that procure and utilize electricity from in-and/or out-of-state biomass conversion facilities.</p>	<p>Electricity from renewable gas and/or biomass conversion counts towards a jurisdiction's procurement as long as the gas meets the definitions of "renewable gas" per Section 18982(a)(62) and "biomass conversion" per Section 18982(a)(3.5) as well as the solid waste facility provisions in 18993.1(i).</p> <p>Regarding purchasing energy from out-of-state facilities, 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.</p>
3172	Romanow, K., City of San Jose	<p>Article 12: Procurement of Recovered Organic Waste Products  Recommendation: Revise Section 18993.1(h) to count renewable gas procured from a POTW to count toward a jurisdiction's organic waste procurement target regardless if the POTW receives organic waste from a solid waste facility.  At the RWF, solids separated during the wastewater treatment process currently undergo mesophilic anaerobic digestion to reduce in volume and generate methane gas. The methane gas is captured and used for on-site energy generation. The on-site energy generation reduces the RWF's reliance on the electrical grid and need to supplement with natural gas. San Jose recognizes that co-digestion of other feedstocks, such as organic waste from a solid waste facility, would boost the energy generated on-site; however, the RWF currently does not have the</p>	<p>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>

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		<p>infrastructure, programs, or funding in place to be able to accept other feedstocks. Furthermore, upon completing the transition for the RWF's biosolids handling process, all of the RWF's biosolids will be diverted from the landfill and will be beneficially reused.</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>
3173	Romanow, K., City of San Jose	<p>Article 17: Performance-Based Source-Separated Organic Waste Collection Service.  Recommendation: modify Section 18998.1 Requirements for Performance-Based Source Separated Collection Service (a)(3)(A) for jurisdictions who process gray cart contents.  We are pleased that CalRecycle included a performance-based option for compliance with these regulations, however, as currently written, the requirements do not allow San Jose to continue to implement and build on our current residential and commercial programs. Our residential program is a three-container system (garbage, recycling, source-separated yard trimmings) that also processes the garbage to recover more organics, while our commercial program is a two-container system (wet/dry). We recommend that CalRecycle make the following changes:  Section 18998.1 (a)(1): Provide <del>an three container</del> organic waste collection service <del>consistent with Section 18984.1 of this chapter</del> to at least 90 percent of the organic waste generators subject to the jurisdiction's collection authority.  (2) Transport <del>the contents of the all</del> source separated organic waste <del>collection stream</del> collected to a designated source separated organic waste <del>facility</del> <b>facilities that recover at least 75 percent of all organic content received.</b>  (3) <del>Ensure that the presence of organic waste in the gray container collection stream does not exceed an aggregate of 25 percent by weight of total solid waste collected in that stream on an annual basis.</del> <b>Demonstrate that less than 25 percent of the content of all waste directed to landfill by the jurisdiction is organic waste.</b>  (A) The percent of organic waste present in the gray container collection stream shall be determined by the results of the report submitted to the Department pursuant to Section 18815.5 (f) demonstrating the results of the sampling performed pursuant to Section 17409.5.7- 17409.5.7.2 and Sections 20901-20901.2.</p>	<p>Comment noted. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The jurisdiction could provide the type of services it describes under the provisions of Article 3.</p>
1020	Sahota, Jagjinder, Environmental Health Division, Solano County Solid Waste Local Enforcement Agency	<p>Section 18990.1. Organic Waste Recovery Standards and Policies  Chapter 25 of the Solano County Code was adopted consistent with the 40 CFR Part 503 (federal) and SWRCB General Order No. 2004-0012-DWQ (state) requirements, both which provide enabling clauses recognizing the authority of local agencies to adopt more stringent requirements and restrict land application. (See SWRCB General Order No. 2004-0012-DWQ: finding 20; 40 CFR §503.5)  Chapter 25 <b>does not prohibit biosolids land application</b>, but includes certain seasonal restrictions and operational requirements to prevent nuisances caused by odor, vector, and runoff contamination, as well as ensuring applications are performed at proper agronomic rates. Chapter 25 also allows neighboring property</p>	<p>CalRecycle updated the proposed regulatory text to reflect the concerns raised by stakeholders about conflicts with local policies or ordinances. Section 18990.1 (b)(1) now reads: "(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:  (1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter."</p>

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		<p>owner input through notifications prior to application and stakeholder outreach processes. Since the implementation of Chapter 25, the number of complaints received by EHD has drastically reduced over time.</p> <p>These local requirements are necessary to minimize human health and environmental risks. Over two decades, EHD has experience working with the public, industry, POTWs, and other stakeholders on the proper regulation of biosolids land application. EHD has used empirical data, as well as scientific research, some funded by local fees, as a basis for review and amendment, as appropriate, of Chapter 25's regulatory requirements since its adoption in 1998.</p> <p>Recommendations:</p> <p>To address contradictions and conflict, Solano County recommends the following changes to the proposed regulation:</p> <p>Amend proposed section 18990.1 by adding the italicized below:</p> <p>(b)(1) <b>Ban or completely</b> prohibit the lawful processing and recovery ...</p> <p>(c)(6) <b>Prohibit a jurisdiction from enacting regulations including operational controls and (seasonal) restrictions to prevent public nuisance conditions.</b></p>	
3000	Santana, D., City of Santa Clara	<p>The recovered organic waste per capita procurement target for 2022 as outlined in section 18993.1 is infeasible because the amount of organic waste products that would need to be purchased is too large for California's current infrastructure to produce the products.</p> <p>The CalRecycle report "SB 1383 Infrastructure and Market Analysis" states that the current compost producers do not have the infrastructure to produce the amounts needed to reach this goal.</p> <p>This report also stated that the current renewable gas producers also do not have the infrastructure to produce the amount of electricity needed for this current target. Information about renewable gas producers is very limited and accurate data about the production rates of electricity or fuels is not widely available.</p> <p>The infrastructure for electricity from organic waste biomass conversion is only offered from a handful of producers in the state which will potentially cause challenges with the large amount that would need to be produced.</p> <p>While we recognize that creating market demand for products made from organic waste will be key to successfully diverting these materials, the proposed procurement targets are unrealistic and will likely be infeasible for most jurisdictions. <b>We ask CalRecycle to consider offering a phased in procurement target with an initial target in 2022 significantly lower than the current target.</b> This will allow time for the production infrastructure of these products to increase with the demand.</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. 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>
3001	Santana, D., City of Santa Clara	<p>This section states, "Commencing July 1, 2022, the operator of disposal facility that receives a gray collection stream ... shall conduct waste evaluations on the gray container collection stream received directly from each jurisdiction collection</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only</p>



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		<p>service consistent with this section, section 20901.1, and section 20901.2 to identify the percentage of remnant organic material present therein."</p> <p>Sections 20901.1 then requires up to <b>five evaluations per quarter per jurisdiction</b>. This means that a landfill operator receiving waste from multiple jurisdictions must physically separate incoming wastes by jurisdiction of origin and perform and report on separate evaluations of organic material percentages for each of those jurisdictions. A typical landfill that accepts more than 1000 tons per quarter from 30 jurisdictions, would thus have to conduct and report out on 600 separate waste evaluations per year. Depending on the time of year, the work would at times be done in conditions of rain, heat, short day length/limited light, and other adverse conditions.</p> <p>While the State might find some value in using the aggregated (all sources) information to assess statewide progress toward the 75% diversion requirement, the jurisdiction-specific organics percentages will be of limited use in determining an individual jurisdiction's compliance with the diversion requirements. That is because the organics levels in waste entering a landfill is only a small part of the organics diversion math equation. Diversion must be measured for the jurisdiction's entire system to be meaningful, taking into account flows of source-separated yard trimmings, food scraps, paper, wood, and other components of the organics generated in the jurisdiction.</p>	<p>perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
6220	Sbarbori, E., City of Palo Alto	<p>The procurement requirements for organic waste products such as compost and renewable energy are not currently feasible given the infrastructure to produce those products identified in the CalRecycle "SB 1383 Infrastructure and Market Analysis" report. While we recognize that creating market demand for products made from organic materials is key to the success of this legislation, the proposed procurement targets would increase statewide demand for products derived from organics waste to a level that is unrealistic for markets to accommodate in the short-term. Palo Alto requests that CalRecycle consider offering a phased-in procurement target and allow time for the processing infrastructure of these products to increase with the demand.</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. 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.</p>
6221	Sbarbori, E., City of Palo Alto	<p>We are pleased that CalRecycle has responded to the request to include a performance-based option for compliance with the SB1383 regulations because such an option offers flexibility for program implementation and reduces the need for oversight. However, as currently written, the requirements for a performance-based system does not recognize the extra efforts of Palo Alto and other</p>	<p>Comment noted. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The jurisdiction could provide the type of services it describes under the provisions of Article 3.</p>

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		<p>jurisdictions have taken to reduce the amount of organics and recyclable materials from being disposed in landfills. In addition to Palo Alto's current program to collect source-separated organics and recycling, the mixed waste (the garbage/landfill container stream) is further sorted to remove some of the remaining recyclable and organic material before it is transported to a landfill.</p>	
6222	Sbarbori, E., City of Palo Alto	<p>Section 18998.1(a)(3) requires that a jurisdiction ensure the presence of organic waste in the "gray container collection stream" not exceed an aggregate of 25 percent by weight of total solid waste collected annually. While we support a requirement to demonstrate no more than 25 percent organics in the disposed waste stream, this provision requires that demonstration at the wrong point in the collection-processing-disposal process. The demonstration that 25% or less of organics is being disposed should be made AFTER sorting to remove additional organics. Doing so will show the combined accomplishments of source-separated and post-collection organics diversion. We suggest an edit to this section below to reflect this. A change to Sections 17409.5.7.2(a) is also required to allow sampling to take place after mixed-waste processing occurs:</p> <p>Section 18998.1(a)(3): "Ensure that the presence of organic waste in the gray container collection stream does not exceed an aggregate of <b>50 25</b> percent by weight of total solid waste <b>directed to disposal collected in from</b> that stream on an annual basis <b>between January 1, 2022 and December 31, 2024, and 25 percent by weight on or after January 1, 2025 ."</b></p> <p>(A) The percent of organic waste present in the gray container collection stream <b>that is directed to disposal from that stream</b> shall be determined by the results of the report submitted to the Department pursuant to Section 18815.5(f) demonstrating the results of the sampling performed pursuant to Section 17409.5.7-17409.5.7.2 and Sections 20901-20901.2."</p>	<p>The waste composition evaluations for the gray container are performed prior to processing. Post processing evaluation does not provide an indication of contamination. Instead, it provides an indication of recovery, which is not the requirement of the section. A jurisdiction that requires generators to place organic waste in the gray container must meet its container contamination monitoring requirements through performing route reviews.</p>
6223	Sbarbori, E., City of Palo Alto	<p>See letter. Section 17409.5.7.2(a): "The operator of an attended transfer/processing facility or operation shall comply with sections 17409.5.7 and 17409.5.7.1 by using the following measurement protocol:</p> <p>(1) Take one sample of at least 200 pounds from the incoming gray container collection stream received by the facility from the relevant jurisdiction(s). <b>If the facility further sorts or processes the gray container collection stream to remove remnant organic material, the sample should be taken following such sorting or processing.</b> Each sample shall be:</p> <p>(A) Representative of a typical operating day;</p> <p>(B) A random, composite sample taken from various times during the operating day.</p> <p>(2) For that sample, remove any remnant organic material and determine the weight of that remnant organic material.</p> <p>(3) Then determine the ratio of remnant organic material in the sample by dividing the total weight of the sample weighed in subdivision (a)(2) by 200 pounds."</p>	<p>The waste composition evaluations for the gray container are performed prior to processing. Post processing evaluation does not provide an indication of contamination. Instead, it provides an indication of recovery, which is not the requirement of the section. A jurisdiction that requires generators to place organic waste in the gray container must meet its container contamination monitoring requirements through performing route reviews.</p>

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6224	Sbarbori, E., City of Palo Alto	This section requires that landfill operators conduct waste evaluations by jurisdiction up to five times per quarter per jurisdiction. While the state might find value in using the aggregated (all sources) information to assess statewide progress toward the 75% diversion requirement, the jurisdiction-specific organics percentages will be of limited use in determining an individual jurisdiction's compliance with the diversion requirements. <b>We ask that Section 20901 be deleted entirely as its requirements are onerous for disposal facilities, and will likely result in increased disposal costs for jurisdictions while yielding little useful data.</b> If the State requires the consolidated data showing the overall percentage of organics in disposed waste, that information could be captured with annual measurements of organics presence in the landfill's aggregated waste stream.	CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.
4488	Scheibly, Marin Sanitary Service	Article 1: Definitions <b>1. We would like to suggest sampling and sample size be added to the definitions list.</b>	The sampling and sampling size are used in various places in this regulation and in existing regulations. Wherever the terms are used, the type and size of the sample is defined. Different sample sizes are appropriate for different processes and therefore it is problematic and unnecessary to codify a single definition of the term.
4489	Scheibly, Marin Sanitary Service	Article 3: Organic waste Collection Services Section 18984.5 Container Contamination Minimization—We are pleased to see two choices offered now. Pg. 22, lines 31-34 (b) Route Review for prohibited container contaminants. <b>1. We are pleased this was changed to annual reporting; however, it is still unclear how many “randomly selected containers” must be audited per jurisdiction.</b> <b>a. Is it a percentage of overall customers?</b> <b>b. Is it a percentage of overall containers in service?</b> <b>c. Is it the same for residential as commercial?</b>	Thank you for the comment. The comment is in support of the current language. 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. CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs.
4490	Scheibly, Marin Sanitary Service	Pg. 23, lines 22-44 (c) Waste Evaluations <b>1. The criteria for compliance are very detailed. We suggest that details be added to (b) above so a jurisdiction will know exactly how to measure compliance.</b>	The text in 18984.5(b) is sufficiently detailed. The comment does not note how additional detail could be added.
4491	Scheibly, Marin Sanitary Service	Pg. 24, lines 34-43 Compliance waiver for jurisdictions that meet two criteria outlined in Section 17409.5.1 and 17409.5.7-17409.5.7.2 and Section 20901-20901.2. <b>Comments given under those sections below.</b>	Collections 348 response: first sentence needs to be edited: "The noted."
4492	Scheibly, Marin Sanitary Service	Article 17. Performance-Based Source-Separated Organic Waste Collection Service Section 18998.1. Requirements for Performance-Based Source Separated Collection Service Pg. 94, lines 14-19 (4) Implement a system for automatically enrolling all new commercial businesses and residents within the jurisdiction in the three-container organic waste collection service within 30 days of occupancy of a business or residence. To comply with this section, a jurisdiction shall not require new commercial businesses or residents to request solid waste collection service prior to enrollment.	Comment noted. The proposed approach does not meet the requirements to provide organic waste collection services either under Article 3 or Article 17.

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		<p><b>2. Does this mean that when a new customer who calls to start garbage service, they will automatically be enrolled in recycling and organics too? Does this make service mandatory?</b></p> <p><b>3. We would like to see clarification of this standard.</b></p>	
4493	Scheibly, Marin Sanitary Service	<p>Article 6.2 Operating Standards Section 17409.5.4 Measuring Organic Waste in recovered from SSO waste collection stream Pg. 115-116.</p> <p><b>1. Is this 10-day period an annual measurement? Every 6 months measurement?</b></p>	<p>The 10 consecutive days of sampling is per reporting period, which there are four reporting periods per year (one per quarter).</p>
4494	Scheibly, Marin Sanitary Service	<p>Section 17409.5.7 Gray Container Waste Evaluations</p> <p><b>1. We suggest that these evaluations only be required for those choosing the Performance Based Approach in Article 17.</b></p>	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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 the gray container waste evaluations 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>
4495	Scheibly, Marin Sanitary Service	<p>Pg. 119, lines 30-33. <b>We suggest the evaluation frequency be changed to twice per year as it is in Section 18984.5. Container Contamination Minimization</b></p>	<p>CalRecycle has deleted the loadchecking requirements for the source separated organic waste collection stream based on comments received during the 45-day comment period. The changes replaced the loadchecking requirements with the gray container waste evaluations. 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.</p>
4496	Scheibly, Marin Sanitary Service	<p>Section 17409.5.7.1 Gray Container Waste Evaluations-Frequency. Pg. 120, lines 9-24</p> <p><b>1. We feel that five evaluations per jurisdiction for facilities that receive 100 tons or greater per year in the gray container is excessive and feel that the there should be no more than 2 evaluations per jurisdiction per year. For companies that service multiple jurisdictions, this requirement could be very costly.</b></p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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</p>

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			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.
3086	Scherson, Y., Anaergia	<p><b>On the regulation text, we propose adding a requirement in section 18984.1 (three-container organic waste collection services) whereby audits of the black container must demonstrate no more than 25% organics to be compliant under a scenario of organic waste collection in the green container.</b> In this section, a jurisdiction can use a three-container collection system and instruct generators to place food waste in the green container, co-mingling with yard waste. In order to make sure substantial amounts of food waste are actually manually diverted from the black bin, where food waste is predominantly disposed today, and into the green container, Calrecycle will be monitoring the organics content of the black container per section 17409.5.7. The issue is that section 17409.5.7 only states the black container will be characterized without a numeric requirement for residual organic waste. Therefore, if substantial amounts of food waste remain in the black bin there is no consequence or target to guide a jurisdiction to require numeric criteria to their haulers, nor is there a numeric criteria to benchmark efficacy. We propose introducing a requirement in section 17409.5.7 that states no more than 25% organic waste can be present in the black bin. This way, the requirement mirrors the criteria in Article 17 (performance based source-separated organic waste collection service) and is consistent with Article 17 standards. This numeric requirement in section 18984.1 is important for the following reasons:</p> <ol style="list-style-type: none"> <li>1. Consistent with performance standards in Article 17</li> <li>2. Providing a benchmark for jurisdictions to compare efficacy of the green bin collection and diversion program in a three-container system</li> <li>3. A numeric requirement ensures organic waste is actually diverted out of the landfill. As currently stated, a jurisdiction could just inform generators to separate food into the green container and due to the absence of any numeric requirement little amounts of food could be diverted into the green bin, with most food still going to landfill, and this would be considered complaint since the black bin audit is just an audit without a criteria.</li> <li>4. A numeric requirement for collection in the green bin is necessary, as measured through black bin audits with no more than 25% organics, to be consistent with the numeric requirement in organics collection via the black container that has a numeric standard of 75% organics capture. If only one collection pathway has a numeric standard (black container) and the other doesn't (green container) then it incentivizes the "easier pathway" and this pathway can be ineffective without any standard or consequence (i.e. remediation plan).</li> </ol>	<p>The purpose of 17409.5.7 (Gray Container Waste Evaluations) is not to penalize jurisdictions for placing organic waste in the gray container, but only to measure how much remnant organic material is found in the gray containers. Since organic waste is prohibited from being placed in the gray container in a three-container collection system, allowing a limit of 25% of organic waste in the gray container would by default, contradict the requirements of this system. Under a three-container waste collection system, gray containers are for the collection of non-organic waste only, excluding recyclables.</p> <p>17409.5.11 allows facilities to comingle remnant organic material recovered from the gray container, with organic waste recovered from the mixed waste and source-separated organic waste collection streams only after both streams have gone through proper sampling protocols.</p>
4284	Schneider, A., Recycle More West Contra Costa	RecycleMore believes in the spirit of SB 1383 and looks forward to implementing it across our jurisdiction. We have some concerns about specifics in the Proposed Regulation Text (Second Formal Draft) as they relate to a generator's ability to	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.

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	Integrated Waste Mgt Authority	<p>identify the correct container for each material. We all agree that consistent color and graphic labels are essential to effective participation in diversion programs. Unfortunately, the proposed draft language has been so diluted, that it is no longer effective in providing any clarity for generators that may be penalized for misusing confusing, unlabeled containers.</p> <p>1) Section 18984.7. Container Color Requirements</p> <p>The Container Color Requirements (now only Container Lid Color Requirements) do not require replacing existing container lids. Only newly delivered containers will have to comply with the requirement until 2036. In our opinion, penalties for placing the wrong materials in a container should only be imposed under a system with standardized container (lid) colors.</p> <p><b>We request that the Container Lid Color Requirements include “all new and existing containers” and that all container lids are required to match the color standard by 2025.</b></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. 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>

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4285	Schneider, A., Recycle More West Contra Costa Integrated Waste Mgt Authority	<p>Section 18984.8. Container Labeling Requirements</p> <p>Likewise the Container Labeling Requirements only affect “new” containers. In our opinion, penalties for placing the wrong materials in a container should only be imposed under a system where all containers or lids are required to be properly labeled.</p> <p><b>We request that all new and existing containers be required to be labeled by 2025.</b></p>	<p>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> <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> <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>

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			<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>
6108	Schoonmaker, K., StopWaste	<p>One of StopWaste’s member agencies, Castro Valley Sanitary District, has just made us aware of an important edit to the regulatory language regarding low population waivers. In Section 18984.12(a)(2), Waivers and Exemptions Granted by the Department (page 29, line 13), we recommend the following change:</p> <p>(2) A <del>county</del> <b>jurisdiction</b> may apply to the Department for a waiver from some or all of the requirements of this article for census tracts located in unincorporated portions of the county that have a population density of less than 75 people per square mile. This change would allow for special districts and other jurisdictions that provide solid waste services in unincorporated county areas to apply for a waiver. For example, Castro Valley Sanitary District provides service to an area meeting the population density criterion above, but is a special district.</p>	<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.</p>
3034	Skye, C., County of LA, Dept. of Public Works	<p>The regulations should clarify that local jurisdictions will have limited responsibility to ensure compliance by entities not subject to the jurisdiction’s authority, such as non-local entities, local education agencies, Federal facilities, and State-owned facilities. The jurisdiction shall be responsible for providing organic waste collection services, education, and outreach to these entities as well as monitoring and recordkeeping only when feasible. However, the Department shall be responsible for enforcing compliance, including imposing penalties on these entities and ensuring that they respond to requests for information from local jurisdictions regarding organic waste recycling capacity and edible food recovery capacity. Local jurisdictions should be able to report any of these entities that are in noncompliance to the Department. Furthermore, jurisdictions should not be subject to penalties for failing to provide monitoring or recordkeeping for these entities.</p> <p><b>Proposed Regulatory Text and Recommended Changes/Revisions:</b></p> <p><b>(e) For entities not subject to the jurisdiction’s authority, such as non-local entities, local education agencies, Federal facilities, and State-owned facilities, local jurisdictions shall be responsible for providing organic waste collection services, education, and outreach as well as monitoring and recordkeeping only when feasible. Jurisdictions shall report non-local entities, local education agencies, Federal facilities, and State-owned facilities in non-compliance to the Department. The Department shall be responsible for enforcing compliance, including imposing penalties and ensuring that non-local entities, local education agencies, Federal agencies, and State-owned facilities respond to requests for information from local jurisdictions regarding organic waste recycling capacity and</b></p>	<p>Comment noted, the regulations clearly state that jurisdictions must enforce requirements on generators subject to their authority, which local education agencies and other non-local entities are not.</p>



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		<p><b>edible food recovery capacity. The Department shall not impose penalties on jurisdictions failing to provide monitoring or recordkeeping for entities not subject to the jurisdiction’s authority, such as non-local entities, local education agencies, Federal facilities, and State-owned facilities.</b></p>	
3035	Skye, C., County of LA, Dept. of Public Works	<p>The definition of “renewable transportation gas” is limited to gas derived from in-vessel digestion of organic waste only. The regulations should expand the definition of “renewable gas” to include gas derived from other technologies, including biomass conversion utilizing thermal conversion technologies, such as gasification and pyrolysis and any other technologies that are determined to constitute a reduction in landfill disposal pursuant to Section 18983.2.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions  (62) “Renewable Gas” means gas derived 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, <b>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 approved under Section 18983.2 to constitute a reduction in landfill disposal.</b></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 expanding “renewable gas” to include gas from biomass conversion, 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>
3036	Skye, C., County of LA, Dept. of Public Works	<p>Section 18984.9. Generators that are not commercial businesses are not required to provide organic waste collection containers in restrooms. However, the definition of “organic waste” in Section 18982 (a) (46) includes “paper products.” “Paper products” are defined in Section 18982 (a) (51) to include paper janitorial supplies, tissue, and toweling. Therefore, Public Works requests clarification from CalRecycle on whether paper products generated in the restroom of a commercial business are required to be diverted through any of the activities listed in Section 18983.1 (b). Public Works also requests clarification on whether a commercial business or a jurisdiction could be penalized for not diverting paper products generated in the restroom from landfill disposal by failing to place them in a source-separated organic waste recycling container or a mixed waste container whose contents are taken to a high-diversion facility that recovers 75 percent of organic waste from its incoming waste stream.</p>	<p>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. Because placement of containers in restrooms is not required, the regulations do not penalize a commercial business or a jurisdiction for not diverting paper products generated in the restroom from landfill disposal by failing to place them in a source-separated organic waste recycling container or a mixed waste container whose contents are taken to a high-diversion facility that recovers 75 percent of organic waste from its incoming waste stream.</p>
3037	Skye, C., County of LA, Dept. of Public Works	<p>Section 18984.13. Public Works recommends that the regulations should not require jurisdictions to separate or recover organic waste discarded in publicly accessible waste bins, such as at public parks and beaches. Preventing the public from placing any prohibited materials in public organic waste collection bins may be a significant challenge because public bins are not continuously or regularly monitored by employees. Los Angeles County received over 50 million visitors in 2018, including many people from other states and countries that are not familiar with organic waste recycling practices. Many of these visitors use public beaches and parks in the County and may not be aware of how to sort organic waste. Furthermore, public organic waste collection bins may attract vermin, posing</p>	<p>The regulations do not require that organics recycling containers be placed next to trash containers in public areas, such as public parks, beaches, etc.</p>

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		<p>significant public health and safety issues in urban jurisdictions such as Los Angeles County.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  (c) A jurisdiction is not required to separate or recover organic waste that is removed from homeless encampments, <del>and</del> illegal disposal sites, <b>and publicly accessible waste receptacles at beaches, parks, or other similar facilities</b> as part of an abatement activity to protect public health and safety. If the total amount of solid waste removed for <b>disposal from homeless encampments and illegal disposal sites</b> pursuant to this subdivision is expected to exceed 100 tons annually, the jurisdiction shall record the amount of material removed.</p>	
3038	Skye, C., County of LA, Dept. of Public Works	<p>Section 18985.1. 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, Public Works 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> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  (7) If a jurisdiction allows generators subject to its authority to self-haul organic waste pursuant to Section 18988.1, <b>the jurisdiction shall require solid waste facility operators accepting organic material from the jurisdiction to provide</b> information regarding self-hauling requirements <del>shall be included in education and outreach material.</del> <b>The jurisdiction shall be responsible for preparing education and outreach materials containing the information regarding self-hauling requirements and providing the education and outreach materials to the solid waste facility operators.</b></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>
3039	Skye, C., County of LA, Dept. of Public Works	<p>Section 18985.1. Los Angeles County is a very linguistically diverse County. Within the unincorporated areas alone, there are hundreds of thousands of residents that speak English less than very well. Public Works is concerned that the regulations may require jurisdictions to provide the education and outreach materials in numerous languages that may not be feasible to produce and distribute annually. Public Works suggests that jurisdictions only be required to provide outreach materials in the most commonly spoken languages and to offer to provide outreach materials in other languages as needed by residents or other generators upon request.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  (e) A jurisdiction shall make the information required by this Section linguistically accessible to its non-English speaking residents in the <b>most common languages understood by those generators and may provide the information in other languages, upon request from a generator.</b> <del>following manner.</del>  <del>(1) For any language that is spoken by more than 10,000 persons or 0.5% of the jurisdiction's residents, and the population speaking that language speaks English less than very well, the jurisdiction shall make the information required by this section available online in that language or</del></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>

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		<p>languages. In the written materials the jurisdiction provides its generators the jurisdiction shall include a notice in the applicable language or languages informing its generators where non-English speaking residents can find linguistically accessible information online.</p> <p><del>(2) For any language that is spoken by more than 50,000 persons or 5% of the jurisdiction's residents, and the population speaking that language speaks English less than very well, the jurisdiction shall include the information required by this section in the materials it provides generators pursuant to subdivision (d).</del></p>	
3040	Skye, C., County of LA, Dept. of Public Works	<p>In Section 18992.1(f), 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 there is no guarantee that the County or its jurisdictions will develop their own waste characterization study with quantities for digestate and biosolids, Public Works recommends that CalRecycle allow a third means of estimating the disposal to assist in the capacity planning analysis, such as reports from local waste water treatment plants that quantify the tonnage (or percentage) of biosolids that are sent to land disposal.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(a) Counties, in coordination with cities and regional agencies located within the County, shall:</p> <p>(1) Estimate the amount of all organic waste in tons that will be disposed by the County and jurisdictions within the County by:</p> <p>(A) Multiplying the percentage of organic waste reported as disposed in the Department’s most recent waste characterization study by the total amount of disposal attributed to the County and each jurisdiction located within the County by the Recycling and Disposal Reporting System; or,</p> <p>(B) Using a waste characterization study or studies performed by jurisdictions located within the County and applying the results of those studies to the total amount of disposal attributed to the County and each jurisdiction located within the County by the Recycling and Disposal Reporting System. Local studies may be used if the studies:</p> <ol style="list-style-type: none"> <li>1. Are more recent than the Department’s most recent waste characterization study,</li> <li>2. Include at least the same categories of organic waste as the Department’s most recent waste characterization study</li> <li>3. Include a statistically significant sampling of solid waste disposed of by the jurisdiction conducting the study.</li> </ol> <p><b>(C) Using a published report or another form of data generated within the County that provides organic waste disposal tonnages or percentages for one of, or all of,</b></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>

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3041	Skye, C., County of LA, Dept. of Public Works	<p><b>the organic waste material types that must be analyzed for capacity planning purposes.</b></p> <p>Section 18992.1 The regulations state that the County shall conduct community outreach regarding locations being considered for new or expanded facilities. The way the language is currently written, if a facility is being considered by Los Angeles County for new or expanded capacity but that facility is located in an incorporated city within the County or in a city located outside of the County (for example, Victorville in San Bernardino County), Los Angeles County would be required to conduct community outreach within those areas. Public Works recommends that this responsibility of community outreach 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>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p><b>(d) In complying with this Section the County, city, and/or applicable jurisdiction in which the proposed facility or activity will be located shall:</b></p> <p><del>(3)</del>(1) 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) Include at least one of the following forms of communication: public workshops or meetings, print noticing, and electronic noticing.</p> <p>(B) If applicable, be conducted in coordination with potential solid waste facility operators that may use the location identified by the County and the cities and regional agencies located within the County.</p> <p>(C) Specifically include communication to disadvantaged communities that may be impacted by the development of new facilities at the locations identified by the County and the cities and regional agencies located within 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> <p>(D) Include communication that is linguistically accessible to non-English speaking residents in a manner that conforms with the requirements of Section 18985.1(f) if an identified location is in a jurisdiction that is required to provide linguistically accessible education and outreach pursuant to that section.</p> <p><b>(2) The County will provide assistance to a city or another jurisdiction located within the County in which the proposed facility or activity will be located with providing outreach with the activities listed in Section 18992.1 (d) (1) (A-D) upon request by the city or jurisdiction. The County will provide assistance to a city or another jurisdiction in which a proposed facility or activity will be located that will</b></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>

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3042	Skye, C., County of LA, Dept. of Public Works	<p><b>accept organic waste from the County with the activities listed in Section 18992.1 (d) (1) (A-D) upon request by the city or jurisdiction.</b></p> <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. Public Works recommends that this language be revised to require jurisdictions to prepare a plan with strategies to ensure additional new or expanded capacity.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  (d) If a County determines that organic waste recycling capacity, in addition to the available 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 it is required to:  (1) Submit an implementation <b>plan schedule</b> to the Department that demonstrates how it will ensure there is enough available capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period.  (A) The implementation <b>plan schedule</b> shall include <b>strategies for ensuring timelines and milestones for planning efforts to access adequate available</b> capacity, including, but not limited to:  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.</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 proposed language is vague and subjective, it is unclear what minimum standard discussing ‘strategies’ could be held to.</p>
3043	Skye, C., County of LA, Dept. of Public Works	<p>Section 18992.2. Edible Food Recovery Capacity</p> <p>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>Proposed Regulatory Text and Recommended Changes/Revisions:  (b) In complying with this Section, the County, in coordination with cities and regional agencies located within the County, shall consult with edible food recovery organizations and edible food recovery services regarding existing or proposed new and expanded capacity that could be accessed by the jurisdiction and its commercial edible food generators. <b>If a city, regional agency, or edible food recovery 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 or edible food recovery agency in the report it submits pursuant to Section 18992.3.</b></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>
3044	Skye, C., County of LA, Dept. of Public Works	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target</p> <p>As a follow-up to comment No. 2 in this letter under Section 18982. Definitions, the definition of “renewable gas” should be expanded to include gas produced from</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</p>

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		<p>biomass conversion and other activities, processes, technologies, etc. determined to constitute a reduction in landfill disposal in addition to gas produced from anaerobic digestion.</p> <p>The recovered organic waste products that a jurisdiction may procure to satisfy its procurement requirements should be expanded to include any renewable gas from anaerobic digestion, biomass conversion, and all other activities, processes, technologies, etc. determined to constitute a reduction in organic waste disposal. Public Works recommends that the procurement of all organic waste products, such as transportation fuel, heating, and pipeline injection in addition to electricity, produced from the renewable gas resulting from biomass conversion, should also be eligible to satisfy a jurisdiction's procurement target.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:</p> <p>(f) For the purposes of this article, the recovered organic waste products that a jurisdiction may procure to comply with this article are:</p> <p>(1) Compost, subject to any applicable limitations of Public Contract Code Section 22150, that is produced at:</p> <p>(A) A Compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this Division ; or</p> <p>(B) A Large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that compost on-site.</p> <p>[NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</p> <p>(2) Renewable gas <b>from anaerobic digestion, biomass conversion, or any other process or technology that is subsequently approved under Section 18983.2 to constitute a reduction in landfill disposal</b> used for fuel for transportation, electricity, heating applications, or pipeline injection,</p> <p><del>(3) Electricity from biomass conversion</del></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) 21 diesel gallon equivalents, or "DGE," of renewable gas in the form of transportation fuel.</p> <p>(B) 242 kilowatt-hours of electricity derived from renewable gas</p> <p>(C) 22 therms for heating derived from renewable gas</p> <p>(D) 27 therms for pipeline injection of renewable gas</p> <p><del>(E) 650 kilowatt hours of electricity derived from biomass conversion</del></p> <p>(B) 0.58 tons of compost, or 1.45 cubic yards of compost.</p>	<p>waste facilities, which allows CalRecycle to verify that these facilities are reducing the disposal of organic waste.</p> <p>Regarding expanding "renewable gas" to include gas from biomass conversion, 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> <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>
3045	Skye, C., County of LA, Dept. of Public Works	Public Works recommends that the regulations not require biomass to be received directly from a permitted solid waste facility. This would force generators or haulers	CalRecycle has revised the regulations to allow electricity from biomass conversion provided that the biomass facility receives feedstock from certain solid waste facilities. This is necessary to be

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		<p>to transport biomass feedstock to a permitted solid waste facility and then to a biomass conversion facility, which may not be co-located with a permitted solid waste facility, potentially adding significant additional expense and transportation impacts to biomass conversion. Public Works believes that this requirement can be modified as shown below to ensure that procurement of products from biomass conversion will reduce methane emissions by only counting towards a jurisdiction's procurement target if these products are created from biomass that otherwise would have been disposed in a landfill. In addition, Public Works believes that this requirement should be modified to reflect comment No. 2 in this letter under Section 18982. Definitions and comment No. 11 in this letter under Section 18993.1. Recovered Organic Waste Product Procurement Target to expand the definition of "renewable gas" to include renewable gas created from biomass conversion and to allow any products, such as transportation fuel, electricity, heating, and pipeline injection, created from biomass conversion to count towards a jurisdiction's procurement target.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:            (i) <del>Electricity</del> <b>Renewable gas</b> procured from a biomass conversion facility may only count toward a jurisdiction's organic waste product procurement target if the biomass conversion facility receives feedstock from a permitted solid waste facility <b>or the biomass would otherwise have been disposed of in a solid waste landfill.</b></p>	<p>consistent with SB 1383 language to support beneficial uses of biomethane derived from solid waste facilities. This requirement allows the department to verify that these facilities are reducing the disposal of organic waste.</p>
3046	Skye, C., County of LA, Dept. of Public Works	<p>The regulations should allow jurisdictions to provide hardship waivers to certain generators, property owners, or business owners to reduce the financial burden of the penalties. The hardship waivers would not in any way exempt a regulated generator, property owner, or business owner from subscribing to organic waste collection services and would only provide a partial or whole exemption from paying a financial penalty. The criteria for granting hardship waivers would be developed by local jurisdictions and approved by CalRecycle.</p> <p>(b) Consistent with the requirements prescribed in Government Code Sections 53069.4, 25132 and 36900 the penalty levels shall be as follows:            (1) For a violation classified as Level 1, the amount of the base penalty may be \$50-\$100 per offense:            (2) For a violation classified as Level 2, the amount of the base penalty may be \$100-\$200 per offense:            (3) For a violation classified as Level 3, the amount of the base penalty may be \$250-\$500 per offense.  <b>(4) For any violation classified as Level 1, Level 2, or Level 3, a generator, property owner, or business owner may request a financial hardship waiver from the jurisdiction imposing the penalty to be granted at the discretion of the local jurisdiction and the Department.</b></p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
3047	Skye, C., County of LA, Dept. of Public Works	<p>Los Angeles County is home to over 1 million residents and 20,000 businesses and is comprised of 120 separate unincorporated areas covering 2,653 square miles throughout the County. Waste collection in the unincorporated areas is currently</p>	<p>A change to the regulatory text is not necessary. The Department cannot allow a portion of a jurisdiction to do a performance-based source separated organic waste collection service as it will be difficult to evaluate and regulate.</p>

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		<p>administered through exclusive residential franchise areas, garbage disposal districts, a non-exclusive commercial franchise system, and open-market in a select area. Implementing a performance-based source separated collection service to all residents and businesses throughout all unincorporated areas may be challenging since the areas are not geographically adjacent. However, implementing a performance-based source separated collection service to all residents and/or businesses in specific unincorporated areas may be more feasible. Therefore, the regulations should be revised to allow jurisdictions to implement the performance-based source separated collection service in portions of the jurisdiction or to provide the performance-based source separated collection service to only certain types of generators within the jurisdiction, while still being eligible for the compliance exemptions listed in Section 18998.2 for requirements pertaining to the generators receiving the performance-based source separated collection service only.</p> <p>Proposed Regulatory Text and Recommended Changes/Revisions:  Section 18998.1. Requirements for Performance-Based Source-Separated Collection Service</p> <p>(a) If a jurisdiction implements a performance-based source-separated organic waste collection service it shall:</p> <p>(1) Provide a three-container organic waste collection service consistent with Section 18984.1 of this chapter to at least 90 percent of the organic waste generators subject to the jurisdiction’s authority, <b>to 90 percent of the organic waste generators within a specified portion of the jurisdiction subject to the jurisdiction’s authority, or to 90 percent of a specific type of generator (residential, commercial, multi-family, etc.) within all or a specified portion of the jurisdiction subject to the jurisdiction’s authority.</b></p> <p>Section 18998.2 – Compliance Exceptions</p> <p>(a) If a jurisdiction implements a performance-based source-separated collection service that meets the requirements of Section 18998.1(a), the jurisdiction, <b>the portion of the jurisdiction in which the performance-based source-separated collection service has been implemented, or the generators receiving the performance-based source-separated collection service</b> shall not be subject to the following regulatory requirements:</p> <p>Section 18998.3 - Notification to Department</p> <p>(a) A jurisdiction that will implement a performance-based source-separated collection service beginning in 2022 shall notify the Department on or before January 1, 2022. A jurisdiction that will implement a performance-based source-separated collection system in any subsequent year shall notify the Department on or before January 1 of that year.</p> <p>(b) The notification shall include the following information:</p> <p>(1) The name of the jurisdiction.</p>	



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		<p><b>(2) The portion of the jurisdiction in which the performance-based source-separated collection service will be implemented and/or the types of generators that will be receiving the performance-based source-separated collection service.</b></p>	
3048	Skye, C., County of LA, Dept. of Public Works	<p>Section 18083. LEA Duties and Responsibilities for Inspections  The regulations state that the Enforcement Agency shall annually select a statistically significant number of land application sites and inspect those sites to verify that compostable material is being land applied consistent with the requirements of Section 17852(a)(24.5), which specifies the physical contamination limits, maximum metal concentrations, pathogen density limits, frequency of application, and depth of application for compostable material and/or digestate spread on any land. Private property owners who purchase certified compostable material with an accompanying laboratory report from a permitted and licensed organics recovery/recycling facility have no way of verifying the contamination, metal, and pathogen content of the compostable material and should not be subject to enforcement actions by the Enforcement Agency for land applying compostable material that exceeds these limits. This requirement will discourage the land application of recovered compostable material. Instead, the regulations should require the Enforcement Agency to inspect the physical contamination limits, maximum metal concentrations, and pathogen density limits of compostable material at the facility that produces the compostable material. The Enforcement Agency can inspect private property to ensure that the frequency and depth of the compostable material complies with the requirements of Section 17852(a)(24.5).  Proposed Regulatory Text and Recommended Changes/Revisions:  (c) On a regular basis, but no less than annually, the Enforcement Agency shall select a statistically significant number of land application sites within their jurisdiction and inspect those sites to verify that compostable material is being land applied consistent with <b>the frequency and depth of application requirements</b> of Section 17852(a)(24.5)(A)4.a. and 17852(a)(24.5)(A)4.b.</p>	CalRecycle has deleted Section 18083(c) in response to comments.
1079	Sloan, Lisa, Santa Barbara County Local Enforcement Agency	<p>2. As per both previous comment letters from Santa Barbara, please 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." This Section identifies the Solid Waste Local Enforcement Agency as the designee to allow less frequent collection. However, Section 17331 designates the Local Health Officer. This section conflicts with the section that it cites. Authority to reduce collection frequency should remain a Health Officer duty.</p>	<p>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 clarified the EAs role and responsibility.  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 EA, the ability to grant a waiver for the collection of waste at a frequency beyond the seven days. Including the EA 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 EA 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 EAs recommendation whether the longer storage would impact the receiving facility before granting the waiver under this subsection.</p>

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1080	Sloan, Lisa, Santa Barbara County Local Enforcement Agency	<p>Section 17414.2(b) requires that operators keep records of properties that receive their compostable materials. This record keeping requirement may cause property owners to reconsider receiving materials. As reported yesterday by Resource Recycling, "A Sacramento Superior Court judge on Tuesday, July 9 issued a temporary injunction blocking the California Department of Resources Recycling and Recovery (CalRecycle) from requiring [Institute of Scrap Recycling Industries] ISRI members to register and provide data to the state." The injunction calls into question the legality of CalRecycle's Recycling and Disposal Reporting System in general.</p> <p>Section 18083(c) requires LEA's to select a statistically significant number of land application sites for inspection. However, this language infers collection of property owner and tonnage information that once more is the type of requirement that may be subject to legal challenge as noted in comment 5. Besides, LEA's have no authority to inspect unpermitted sites without a warrant.</p>	<p>The ISRI case dealt with whether CalRecycle could require information about material that was alleged to not be "solid waste." It does not call into question the legality of RDRS in general. In this instance, Section 17414.2(b) deals with compostable materials coming out the back end of a solid waste facility. This means that the material is already presumed discarded and therefore the status of the material as "solid waste" is not in question.</p> <p>CalRecycle revised Section 17414.2(b) in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of compostable material sent off site to any destination other than to permitted solid waste facility or operations, the percentage of incompatible material, and the total weight of the compostable material sent off site that day. The purpose is to specify that the material sent off to a destination that is not a permitted solid waste facility has less than 20% incompatible material by 2022 and 10% by 2024. This is necessary to ensure that the material was processed to a level that a receiving facility can recovery the material.</p> <p>Regarding Section 18083(c): CalRecycle has deleted Section 18083(c) in response to comments.</p>
4701	Smith, Kern County Public Works	<p>Article 1 Section 18982 14.5 B - CONCERN</p> <p>We are concerned that the term disposal and landfill disposal are not being used in a manner consistent with intent or other regulation. "Disposal" within the general meaning of the Public Resources Code and Title 14 and Title 27 regulations broadly include landfill disposal as well as other types of disposal, including transformation. The term "landfill disposal," on the other hand, within the meaning of these proposed SB 1383 regulations only includes landfill disposal, not transformation. It is most important to recognize this distinction when using these terms throughout the proposed regulations.</p> <p>Proposed Language (B) The facility is a "Composting operation" or "composting facility" as defined in Section 18815.2(a)(13) of this division that has less than 10 percent organic waste contained in materials sent to disposal as reported pursuant to Section 18815.7 of this division and complies with the digestate handling requirements specified in Section 17896.57 of this division if applicable.</p> <p>1. If the Compostable Material Handling Operation or Facility has more than 10 percent organic waste contained in the materials sent to <del>disposal</del> <b>landfill disposal</b> for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a "Designated Source Separated Organic Waste Facility."</p>	<p>Comment noted. CalRecycle does not believe a change is necessary as the term disposal as used in the scoping section clearly refers to landfill disposal. The term disposal and landfill disposal are frequently used interchangeably. In fact, the section of the Health and Safety Code codified by SB 1383 commenter does just that: Health and Safety Code Section 39730.6. (a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics: (1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020. (2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. (b) Except as provided in this section and Section 42652.5 of the Public Resources Code, 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." (emphasis added).</p> <p>As noted in the Initial Statement of Reasons, there is no existing definition of landfill disposal, or organic waste disposal in the Health and Safety code. As a result, Article 2 of the regulations specifically identifies activities that constitute landfill disposal of organic waste for the purposes of the regulations. The regulations also identify activities that constitute a reduction of landfill disposal of organic waste. Activities that constitute landfill disposal were identified in the regulations in consultation with CARB, as required by statute.</p>

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			However in response to comments on this item CalRecycle staff conducted a thorough review to ensure the term disposal and landfill disposal were used properly and consistent with the statutory intent throughout the regulation.
4702	Smith, Kern County Public Works	<p>"Lifecycle greenhouse gas emissions" (39.5) - CONCERN</p> <p>We understand and support the 0.30 MTCO<sub>2</sub>e/ton standard for determining if a technology meets the requirement for determining a reduction in landfill disposal of organic waste. SWANA understands that this standard is based on the reduction of GHG emission associated with the composting of organic waste as stated in Section 18983.2 (a)(3) below. However, we also understand that the 0.30 Standard does not include some GHG emissions associated with composting operations. For example, we understand that GHG emissions associated with the transport of organic waste to composting facilities and the transport of compost to the final use of the compost product is not included in the calculation of the 0.30 standard. There may be other similar exclusions in the calculation of the 0.30 standard. Thus, we believe it is appropriate to exclude similar emissions association with other technologies. For example, an alternative technology may also require the transport of organic waste residuals to a location where the technology is operating to produce a low carbon product. Similarly, the resultant low carbon product must be transported to the end-use location. These transportation emissions associated with the production and use of the technology should not be counted as emissions to determine compliance with the 0.30 standard. Any other similar emissions to those excluded from the composting emission calculation should be similarly excluded from the alternative technology approval process.</p> <p>Proposed Language</p> <p>(39.5) "Lifecycle greenhouse gas emissions" or "Lifecycle GHG emissions" means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions, <b>and emission reductions</b>), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a diversion location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. <b>The GHG emission reductions from low carbon energy generation, fuel production, or chemicals produced by the process or technology should be also be considered.</b></p> <p>The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential.</p> <p><b>However, "Lifecycle greenhouse gas emissions" or "Lifecycle GHG emissions" as used in Article 2 of these regulations shall not include emissions associated with other operations or facilities with processes that reduce short-lived climate pollutants, as that term is used in Article 2, that are similar to or consistent with those emissions that were excluded as the basis for developing the 0.30 MTCO<sub>2</sub>e/short ton of solid waste standard.</b></p>	<p>In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to "lifecycle GHG emissions" for the specific technology or process submitted under Section 18983.2. Staff added a definition for "Project Baseline" to section 18982 (a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2. "GHG benefits" and "production or use offsets" are different ways of framing GHG emissions reductions. Since these are included in the project baseline emissions, they are therefore included in the GHG emissions reduction that is calculated as described above.</p> <p>Staff used the methodology described in guidance doc referenced in the FSOR to derive the 0.30 MMTCO<sub>2</sub>e/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 MTCO<sub>2</sub>e threshold and therefore must be considered in the GHG emissions reduction and the lifecycle GHG emissions calculations.</p>

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4703	Smith, Kern County Public Works	<p>(66) Self Hauler - CONCERN</p> <p>As defined, "Self-hauler" is so broad that could describe nearly every resident, business, government facility or other entity in California. <b>We ask that CalRecycle consider whether this definition is even needed.</b></p> <p>Proposed Language</p> <p><b>If 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.</b></p>	<p>Commenters asked CalRecycle to consider whether the definition 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. 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.</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>
4704	Smith, Kern County Public Works	<p>Section 18983.1(a)(2)(B)- CONCERN</p> <p>Removing "except the use of Material Recovery Fines that are approved pursuant to Section of Title 27 Division 2" can create interpretation and determination issues regarding waste-derived material types that constitute disposal. For example, material recovery fines from construction and demolition recycling operations may include small amounts of wood. Material separation equipment agitate wood/lumber and other construction-demolition materials to incidentally produce small pieces of wood within fines. Under this scenario, even though wood would constitute a very small portion of the material fines, a determination may be made that ADC-Construction Demolition contains organic waste, which could then constitute disposal. Additionally, ADC-Compost materials is one of 11 CalRecycle approved waste derived ADC material types. We understand that since compost overs were also produced after decomposing during the composting process, it no longer contains or is considered under the definition of organic waste and thus should not constitute disposal. This interpretation may be questioned by local enforcement agency officials.</p> <p>Regulation interpretation has the tendency to evolve and as contributors move on or retire, all that is left is the language. The current language is too definitive. ADC-material cannot contain any organic waste, no matter how minute.</p> <p>Proposed Language</p> <p><b>Restore the previous version of this section, provide enforcement agency guidance regarding limitations of organic waste within proposed new ADC-types, provide guidance regarding ADCCompost which should not constitute disposal; or</b></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>

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4705	Smith, Kern County Public Works	<p><b>eliminate ADC-related text. ADC-greenwaste would constitute disposal but all other ADC-types with incidental organic remnants should not.</b></p> <p>Section 18984.12(d)(2) - CONCERN  Waivers and Exemptions Granted by the Department Our county has had issues with bears scavenging waste bins at less than 3,500 foot elevation.  Proposed Language  <b>A county may apply to the Department for a waiver for some or all of its generators in census tracts located in unincorporated portions of the county that are located at or above 2,500 feet</b></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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 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 &lt;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>

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			<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>
4706	Smith, Kern County Public Works	<p>Section 17409.5.7 Gray Container Waste Evaluations            In identifying remnant organic material/waste in the gray container stream, there are certain wastes that are considered "organic waste" per the definition. These wastes, which can include pet waste, adult and infant diapers, hazardous wood wastes and non-compostible paper, are currently not compatible with existing recycling/compost programs. Given this situation, these waste types should not be counted as remnant organic waste.            Proposed Language  <b>Include similar language listed in Section 17867(a)(16)(F) "For the purposes of the measurements required by this subdivision, organic waste that are textiles, carpet, hazardous wood waste, non-compostible paper, human or pet waste, and material subject to quarantine on movement issued by a county agricultural commissioner is not required to be measured as organic waste."</b></p>	<p>A change to the regulatory text is not necessary. Remnant organic material only applies to organic waste collected in the gray container collection stream, as part of a three-container system. The purpose of the gray container waste evaluations 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>
4707	Smith, Kern County Public Works	<p>Article 8 Section 18989.1 - CONCERN            Existing CALGreen is currently being managed and monitored by the California Building Standards Commission under the Department of General Services.            Proposed Language  <b>To avoid enforcement confusion and duplication of work, we recommend deleting this section.</b></p>	<p>CalRecycle is not adopting a new building code. The regulations require jurisdictions to enforce the aspects of CalGreen and MWELo requirements that help reduce the disposal of organic waste. Jurisdictions are already required to comply with these requirements, including them in the regulations ensures that CalRecycle can require that policies that are necessary to reduce organic waste disposal are implemented.</p>
4708	Smith, Kern County Public Works	<p>Article 8 Section 18989.2 - CONCERN            Currently, jurisdictions are already required to adopt Model Water Efficient Landscape Ordinance (MEWL).</p>	<p>CalRecycle is not adopting a new building code. The regulations require jurisdictions to enforce the aspects of CalGreen and MWELo requirements that help reduce the disposal of organic waste. Jurisdictions are already required to comply with these requirements, including them in the</p>

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		<p>Proposed Language  <b>We believe this section is redundant and unnecessary and recommend deleting to avoid confusion.</b></p>	<p>regulations ensures that CalRecycle can require that policies that are necessary to reduce organic waste disposal are implemented.</p>
4709	Smith, Kern County Public Works	<p>Article 12 Section 18993.1(b)(1)- CONCERN  The second draft to these regulation increases the mandate by 14.3%, to 0.08 tons per resident per day. The huge gap between this requirement and the jurisdiction actual needs for organics-derived materials indicates a serious flaw in the assumptions underlying this provision. The assumed link between local government's 13% share of GDP and local government's ability to absorb organics-derived products appears to be faulty. In any case, the requirements presume the availability of products that are not currently available and may not be available for years.  Proposed Language  <b>Modify start date contained in (a) of this section to read January 1, 2025</b></p>	<p>A specified procurement amount is necessary for jurisdictions to measure compliance with Article 12, which is necessary to achieve the ambitious diversion targets required by SB 1383. The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from the department's Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.  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 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. Regarding renewable gas alternatives "not currently available" to the County, it is important to note that the options available today do not necessarily reflect the options that will be available in the future once the more than 25 million tons of organic waste are diverted and processed. Therefore, revising or deleting these regulations to satisfy current availability of recovered organic waste products and current infrastructure would not be forward-looking nor would it match the intent of Article 12.  CalRecycle disagrees with modifying the start date to January 1, 2025. 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.</p>
6109	Sommer, W., StopWaste	<p>Performance-based pathway to compliance: We appreciate this alternative, but as written, few facilities will be able to meet this standard. We could likely meet the goals for food and green material; however, it is difficult to meet when paper, textiles, and carpet are included.</p>	<p>Comment noted. SB 1383 statutory language requires California to achieve strict organic waste reduction targets. Paper is a type of organic waste and constitutes a significant portion of organic waste disposal, and therefore not including it the recovery efficiency or contamination standards would ignore a significant portion of the organic waste disposal stream and compromise the state's ability to achieve the organic waste reduction targets. With regard to textiles and carpet, 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."  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>

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6110	Sommer, W., StopWaste; McBain, R., City of Piedmont	Simplified, more inclusive outreach materials: The new draft has expanded the number of languages required in outreach materials. We encourage CalRecycle to allow the use of graphics to satisfy this requirement and meet the intent of being as inclusive as possible. Graphics can communicate to everyone, regardless of language(s) spoken or reading level, and it has been proven that the use of graphics leads to better sorting behaviors. In addition, streamlined outreach materials reduce costs associated with design and production of materials in multiple languages.	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
6111	Sommer, W., StopWaste; McBain, R., City of Piedmont; Foss, C., City of Dublin	Realistic enforcement: We recommend restoring the ability of cities to allow designees to issue waivers. We currently issue waivers on behalf of the cities of Alameda County as part of our MRO because it is more efficient	A change to the regulatory text is not necessary. Issuing waivers is a discretionary action done by the jurisdiction. Section 18981.2 states a jurisdiction is ultimately responsible for compliance with the requirements of the chapter, not the designee.
6112	Sommer, W., StopWaste; Foss, C., City of Dublin	Flexibility in record keeping: For efficiency we have taken on aspects of generator compliance through MRO on behalf of the jurisdictions. This involves the data management and storage of thousands of letters and photographs, which would be incredibly difficult, time-consuming, and redundant to transfer monthly. For efficiency, we recommend that record-keeping requirements allow for portions of the implementation record to be held by designees, given that the record is readily accessible by CalRecycle when requested.	This comment was made and was responded to in the 1st 45-day comment period and is not germane to the changes made to the regulations in the 1st 15-day comment period.
6113	Sommer, W., StopWaste	Food waste prevention and edible food recovery: We have made this comment on previous drafts, and reiterate it here because the biggest climate benefit is achieved through the prevention of food waste. We strongly recommend incorporating incentives for preventing food waste upstream, including waivers for commercial edible food generators who generate de minimis quantities of edible food or no surplus food.	<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. While this education is important for all commercial edible food generators, this education will be paramount for commercial edible food generators that dispose of edible food types that are not desired by food recovery organizations and food recovery services as these generators are still required to comply.</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</p>



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			<p>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 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>
6114	Sommer, W., StopWaste	<p>Procurement: We strongly disagree with procurement targets for cities based on population and GDP because neither is related to the actual need for compost. Many cities do not have enough green space to apply the annual required amount of compost. In addition, composters do not have a problem selling quality compost, and composters serving the Bay Area sell out every year.</p>	<p>The comment suggests basing the procurement target methodology on "actual need for compost" but lacks specific language for quantifying that approach. Further, the comment seems to misinterpret the procurement requirement as limited to compost, when in fact, there are multiple options for procuring different products based on a jurisdiction's local need. The procurement requirements are designed to build markets for recovered organic waste products, not keep markets unchanged as the comment seems to suggest. SB 1383 will require over 25 million tons of organics to be diverted by 2025, a significant portion of which will be composted.</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>
6115	Sommer, W., StopWaste	<p>However, processors are experiencing a serious wood glut due to the closures of many biomass plants in the state. We also recommend that the state allow the procurement of mulch to meet procurement requirements not only to address the wood markets, but also to give cities some more options for compliance.</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>
6116	Sommer, W., StopWaste	<p>For cities that rely on composting to process organics, the use of renewable gas products to meet procurement targets is not realistic due to insufficient production.</p>	<p>Jurisdictions are not limited to generation of recovered organic waste products from "their" organics to satisfy the procurement requirements. A jurisdiction may procure from any entity provided the end products meet the Section 18982(a)(60) definition of "recovered organic waste products".</p>

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			<p>The comment that there is “not enough” production capacity (RNG or for other materials) assumes current availability. The procurement requirements are designed to build markets for recovered organic waste products, not keep markets unchanged as the comment seems to suggest. The options available today do not necessarily reflect the options that will be available in the future once the more than 25 million tons of organic waste are diverted and processed. Therefore, revising these regulations to satisfy current availability of recovered organic waste products and current infrastructure would not be forward-looking nor would it match the intent of Article 12.</p>
6117	Sommer, W., StopWaste	<p>Lastly, we recommend that renewable natural gas procurement be focused on heavy duty transport, rather than buildings and light vehicles, where excellent battery options exist.</p>	<p>CalRecycle disagrees with the comment’s proposal to focus renewable fuel on heavy duty transport. The intent of the procurement regulations is to provide flexibility to jurisdictions in choosing recovered organic waste products that best fit local needs. A jurisdiction may choose to use those products for the most appropriate end use that fits local needs.</p>
6118	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18981.2: Proposed Language: delete or change to: d) Nothing in this chapter <del>authorizes</del> <b>prohibits</b> a jurisdiction to delegate its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity. We want the jurisdictions to be able to allow franchised haulers to assess fees for container contaminants or lack of service if they want to amend their franchise to do that.</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>
6119	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18981.2: d) Nothing in this chapter authorizes a jurisdiction to delegate its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity. Question: Does this mean that a jurisdiction can't have the franchised hauler give fines to generators for container contaminants? Maybe those kinds of "fees" are not considered "civil penalties", though?</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>
6120	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18982: Proposed Language: Allow time for composting facilities to meet this standard based on the interim 50% goal. Rationale: This standard is not currently being met by any facilities in the state to our knowledge and it's doubtful that they would be able to by 2022. At this point, overs sent to ADC being mainly organic material by weight. This would effectively eliminate the option of the performance-based pathway for all jurisdictions in the state. What this would mean is that existing programs like those in Alameda County and San Francisco would have to shift over to align with new state requirements, which we know is not the intent.</p>	<p>Facilities are not strictly required to demonstrate that they meet or exceed the standards of a “designated source separated organic waste recycling facility.” If the facilities recovery efficiency exceeds the standards of a “designated source separated organic waste recycling facility” a jurisdiction that implements a performance-based source separated organic waste collection service, may transport source separated organic waste to that facility. If a facility does not exceed the recovery efficiency standards of a designated source separated organic waste recycling facility, a jurisdiction implementing a performance-based source separated organic waste collection service can not send source separated organic waste to that facility. The recovery standards are established as the minimum standards necessary to achieve the purpose of the statute, see statement of purpose and necessity for Section 18982 (a)(14.5). Further the standards are intended to improve performance over current levels, which is necessary to achieve the statutory targets. However, a facility is not required to meet a specific standard, however if it does not meet a standard the types of collection services that can deliver waste to that facility may be limited. Furthermore, jurisdictions are not required to pursue compliance with the collection requirements through Article 17 may and choose one of the options outlined in Article 3.</p>

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6121	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18982: Proposed Language: 26) "Food recovery service" means a person or entity that collects and transports edible food from a <del>an</del> <b>commercial</b> edible food generator to a food recovery organization or other entities for food recovery. Rationale: For consistency with change in definition for "Food recovery organization" and to match to definition of commercial edible food generator that's only Tier One and Tier Two.	A minor edit was made to the definition of "food recovery service" in response to this comment and the commenter's comment letter. The final definition of a food recovery service is: "Food recovery service" means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery.
6122	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18982: Proposed Language: 28) "Grey container" means a container where the lid of the container is entirely a shade of grey or black in color. Hardware such as hinges and wheels on a <del>green</del> <b>grey</b> container may be a different color. Rationale: Looks like a typo.	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say 'gray' instead of 'green.'
6123	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE: "Tier One commercial edible food generator" Rationale: Food service provider is a changed definition. Some food service providers could be pretty low volume to a commercial entity, so there should be some kind of size qualifier in the Tier One definition or if it's a food service provider operating a cafe/restaurant in a commercial cafeteria-like setting it should be considered to be only for 250 seats or more in Tier Two similar to the restaurants.	The commenter did not provide any data to support or justify a change to the regulatory text. Data to justify this revision would need to be provided before a threshold for this generator could be considered. Specifically, food waste disposal rate and food donation data from food service providers based on the different thresholds recommended would need to be presented to CalRecycle and reviewed prior to making the proposed change.
6124	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18984.1: Proposed Language: A) Compostable plastics may be placed in the green container if the material meets the ASTM D6400 standard for compostability and the contents of the green containers are transported to Compostable Material Handling Operations or Facilities or In-vessel Digestion Operations or Facilities that have been provided written notification to the jurisdiction that the facility can process and recover <b>or remove</b> that material. The written notification shall have been provided within the last 12 months. Rationale: If regular plastic bags are able to be removed, then compostable plastic liners should be able to be removed as an option.	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).
6125	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	See letter. Question/Notes: Sometimes the jurisdiction has no direct relationship with the composting facility where their organics are being processed because their franchised hauler has that relationship. Is it okay if the letter is to the hauler? Also, the facility may not want to put it in writing that they accept "synthetic materials" as it may violate the NOP standards.	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.

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			<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>
6126	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18984.5: Proposed Language: b) A jurisdiction may meet its container conamination minimization requirements by conducting a route review for prohibited container contaminants on randomly selected containers <b>or previously non-compliant generators</b> in a manner that results in all collection routes being reviewed annually. Rationale: Our MRO implementation currently is a routine inspection program that inspects commercial accounts over 1 cubic yard of weekly garbage service (and looks for container contaminants) about every 2 to 3 years or more frequently if they have a history of non-compliance. For our jurisdictions' compliance with this section for commercial accounts, as long as we make sure each commercial route in each jurisdiction gets inspections, our program should count towards meeting these requirements. Our decision of which account to inspect, though, is not technically "random" but based on who we think have been "bad actors" in the past.</p>	<p>Thank you for the comment. The comment is in support of the current language. 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. CalRecycle disagrees with making it a requirement that contamination monitoring is random as it would limit flexibility and increase costs.</p>
6127	Sommer, W., StopWaste; Harrington, P., City of Berkeley	<p>18984.5: Proposed Language: 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, <del>and if available, any photographic documentation,</del> and what action was taken. Rationale: 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>	<p>CalRecycle has provided flexibility by allowing the jurisdiction to maintain documentation in the implementation record of the number of containers where the contents were disposed due to observation of container contaminants. Additionally designees are not required to inspect a set minimum number of individual generators on a monthly basis.</p>
6128	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18984.5: Proposed Language: We recommend allowing sampling at the transfer station by truck, in addition to pulling samples on the route, and allowing for sampling commercial and residential routes separately. Rationale: This sounds like a hybridization of two methods, and does not address the differences composition in commercial and residential SSO streams.</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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6129	Sommer, W., StopWaste; Harrington, P., City of Berkeley	<p>18984.5: Proposed Language: Recalculate appropriate sample size to reflect material characteristics (particle size, etc.).</p> <p>Rationale: The 200-lb sample size was calculated for MSW by the US Public Health Service 50 years ago, and was based on particle size typical of MSW at that time (mainly paper, glass, and metal), which is different from the materials and particle sizes in source separated organics, which are smaller and less discrete objects.</p>	<p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology.</p> <p>A change to the regulatory text is not necessary. 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. Based on this expert information, a text change is not necessary.</p>
6130	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18984.5 Proposed Language: (d) Nothing in this section limits a jurisdiction from adopting contamination standards, sampling, or noticing protocols that are <b>as stringent</b> or more stringent or rigorous than the requirements of this section. <b>Proposed waste evaluations shall use a 90% confidence interval.</b></p> <p>Rationale: Allow jurisdictions to develop efficient contamination measurement protocols and require that new evaluation protocols use a 90% confidence interval. This allows for innovation and the development of new technology, and requiring a 90% confidence interval establishes an verifiable standard.</p>	<p>The language that is proposed to be modified is optional. It is not necessary to specify that an optional standard must meet a specific confidence interval.</p>
6131	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18984.5 Proposed Language: (1) Pursuant to Section 17409.5.1, the solid waste facilities processing the jurisdictions green container collection stream recover <b>50 percent between January 1, 2022 and December 31, 2024</b> and 75 percent <b>by January 1, 2025</b> of organic content received at the facility.</p> <p>(2) Pursuant to the sampling conducted of the gray container collection stream by solid waste facilities servicing the jurisdiction pursuant to section Section 17409.5.7-17409.5.7.2 and Sections 20901-20901.2 demonstrates an average weight of organic waste present in gray container material of less than <b>50 percent bewteen January 1, 2022, and December 31, 2024, and 25 percent by January 1, 2025.</b></p>	<p>Comment noted. The definition of designated source separated organic waste facility phases in the requirements as proposed in the comment. Several commenters proposing this approach appear to assume that the recovery efficiency target is an overall jurisdiction diversion target. It is not. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The provisions related to compost operations and facilities were amended to phase in the organic disposal levels from 20 percent in 2022 to 10 percent in 2024.</p> <p>The definition of “designated source separated organic waste recycling facility” in Section 18982(a)(14.5) includes cross-references that make it clear that a facility that is seeking to qualify as a designated source separated organic waste recovery facility can rely upon the sampling and measurement and reporting requirements that are included in Sections 17409.5.8 and 18815.5. Facilities are not required to qualify as designated source separated organic waste facilities. They may demonstrate that they meet the standards through the applicable reporting requirements. The emphasis of the requirements in Article 17 rest with jurisdictions who may only use a facility that has demonstrated that it meets the designated source separation organic waste facility standards.</p>
6132	Sommer, W., StopWaste; Harrington, P., City of Berkeley	<p>18984.6 See letter for proposed language</p> <p>If a 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 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.</p>	<p>This comment was made and was responded to in the 1st 45-day comment period and is not germane to the changes made to the regulations in the 1st 15-day comment period.</p>

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6133	Sommer, W., StopWaste; Harrington, P., City of Berkeley	<p>18984.7: Proposed Language: 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.</p> <p>Rationale: 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 OR AT LEAST IN SECTIONS OF THE JURISDICTION. ESPECIALLY GIVEN ALL THE REQUIREMENTS FOR EDUCATION/OUTREAH IN DIFFERENT LANGUAGES, IT WOULD BE A MESSAGING NIGHTMARE TO HAVE DIFFERENT NEIGHBORS ON THE SAME STREET BE USING DIFFERENT COLOR BINS JUST BECAUSE SOME BROKE AND HAD TO BE REPLACED WITH THE NEW COLORS.</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>
6134	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18984.1: Make sure this new language still allows an employee or agent of the jurisdiction to enter into common areas of a multifamily complex to verify that the property has organics service or not. Maybe change to "private residential living space"?</p>	<p>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.</p>
6135	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18984.11 Proposed Language: 1) De Minimis Waivers: A) A jurisdiction may waive a commercial business's 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 demonstrating that: 1) The commercial business's total solid waste collection service is two cubic yards or more per week and organic waste comprises less than 20 gallons per week of the businesses' <del>total</del> <b>solid waste in the grey container.</b> 2) The commercial business's total solid waste collection service is less than two cubic yards per week and organic waste comprises less than 10 gallons per week of the businesses' <del>total</del> <b>solid waste in the grey container.</b></p> <p>Rationale: If total solid waste collection service is defined as all three streams of collection service (garbage, recycling and organics), then the threshold of what qualifies as de minimis should be based on what's in the garbage, not what they may be already diverting in the blue or green container. Our MRO approves de minimis waivers if "documentation satisfactory to the enforcement Official is provided that Covered Materials comprise, on an on-going and typical basis, less than 10% by weights of Solid Waste taken to Landfill(s) from that collection location."</p>	<p>There is nothing that prohibits the jurisdiction from having more restrictive criteria. The language does not limit de minimis waivers to three-container systems. Regarding part time residential waivers. CalRecycle is not able to quantify how much material would be exempt, and many of these residents would be captured under the low population waivers in Section 18984.12. Such a waiver could compromise the state's ability to meet the organic waste reduction targets. CalRecycle does not concur with waiving to "part-time" residents as the term is undefined and could encompass a significant amount of waste generation when the property owner is in residence.</p>
6136	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>See letter for proposed language</p> <p>18984.11: We currently issue waivers for our MRO, which our member agencies have agreed to by opting-in to our Ordinance. It's more efficient for us to do it regionally since we are the entity implementing the whole Mandatory Recycling Ordinance.</p>	<p>JPA's are included the definition of 'Jurisdiction' in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.</p>
6137	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18984.11 c) Notwithstanding Section 18981.2 the authority to issue a waiver authorized by this section cannot be delegated to a designee.</p> <p>Proposed Language: Delete or allow regional agencies/counties or joint powers authorities to be able to issue waivers on behalf of jurisdictions.</p>	<p>CalRecycle has revised the section to change 'designee' to 'private entity.' The change is necessary to clarify that a JPA is allowed to issue waivers and that private entity is not. The language is limits the issuance of waivers to public entities as authorizing a private entity which may have a financial interest in the issuance or denial of waivers is not appropriate.</p>

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6138	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>Question: Why was this line put in?</p> <p>18985.1 See letter for proposed language In diverse urban areas, this is going to require a lot of additional text in multiple languages in the written materials that will end up cluttering up the messages we are trying to get across. Allowing for graphics would transcend language and be more accessible for all parties including the illiterate. Also, just because there are residents who speak that language doesn't mean that the business owners speak all those languages and not English very well, so it shouldn't be required for commercial written materials.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
6139	Sommer, W., StopWaste; Harrington, P., City of Berkeley	<p>See letter for proposed language. Graphics provide more inclusive and effective communication to the population as a whole than 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.
6140	Sommer, W., StopWaste; Harrington, P., City of Berkeley	<p>18985.2 Proposed Language: A jurisdiction shall develop a list of food recovery organizations and food recovery services operating within the jurisdiction <b>that directly accept food from Tier 1 and Tier 2 generators, and maintain the list</b> on the jurisdiction's website. Rationale: For the purposes of the regulations, a jurisdiction should not be required to list all orgs that are receiving food as a pass through from a FRO who collects/receives directly from commercial edible food generators. 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"? Is not clear if FRO's must directly accept food from CEFG's or indirectly, such as a food pantry from a food bank.</p>	<p>In response to this comment, a change to the regulatory text was made to Article 13, Section 18994.2 Jurisdiction Annual Reporting, (h)(2) to clarify that a jurisdiction shall report the following regarding its implementation of the edible food recovery requirements of Article 10: (h)(2) "The number of food recovery services and organizations located and operating within the jurisdiction that contract with or have written agreements with commercial edible food generators for food recovery." This minor text change is necessary to clarify that jurisdictions are not required to report the total number of all food recovery organizations and services located and operating within the jurisdiction. Rather, jurisdictions are only required to report the number of food recovery organizations and services that contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3(b). If a faith-based food recovery organization, library, or recreational center has a contract or written agreement with one or more commercial edible food generators pursuant to Section 18991.3(b), then the jurisdiction is required to include those entities in the numbers they report. If any of those entities recover edible food that would otherwise be disposed, but do not have a contract or written agreement with commercial edible food generators pursuant to Section 18991.3(b), then jurisdictions are not required to include them in the number of food recovery services and organizations that they report.</p>
6141	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18989.2: Proposed Language: (a) A jurisdiction shall adopt an ordinance or other enforceable requirement that requires compliance with Sections 492.6(a)(3)(<del>1</del>)(B),(C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations. Rationale: Typo: Section 492.6 (a)(1) refers to plant material. Section 492.6(a)(3) refers to Soil Preparation, Mulch and Amendments.</p>	Thank you for the comment. CalRecycle has revised Section 18989.2(a) to correct the citation. The change above addresses commenters questioning that this does not refer to organics.
6142	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	Re section 18991.3 Need the possibility for a waiver for commercial edible food generators that don't generate surplus edible food (such as if they are a Tier Two generator with an on-site food facility but all the food is eaten or edible food is not otherwise generated regularly) and they need an allowance for food that is not wanted by FRO's (e.g., pastries).	All commercial edible food generators subject to SB 1383 must contract with food recovery organizations and food recovery services that are willing and capable of recovering their edible food. For example, if a commercial edible food generator contracts with a food recovery organization that will recover all of the generator's grocery rescue, but will not recover the generator's baked goods, then the generator must contract with an additional food recovery

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			<p>organization or service willing to recover the generator’s baked goods. In response to this comment, CalRecycle would like to clarify that commercial edible food generators are not exempt from compliance if they only have baked goods 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 certain types of food be recovered.</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 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>
6143	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18992.1 Proposed Language: B) Using a waste characterization study or studies performed by jurisdictions located within the county and applying the results of those studies to the total amount of disposal attributed to the county and each jurisdiction located within the county by the Recycling and Disposal Reporting System. Local studies may be used if the studies: 1. <del>Are more recent than the Department's most recent waste characterization study</del> 2. Include at least the same categories of organic waste as the Department's most recent waste characterization study. 3. Include a statistically significant sampling of solid waste disposed of by the jurisdiction conducting the study.</p> <p>Rationale: If a jurisdiction thinks that their jurisdiction's waste characterization study is more accurately assessing their organic waste than the statewide study does, then it should not be superceded by the Department's more recent study that still may not be as accurate. That would have wasted the significant amount of money that the jurisdiction spent to conduct that local study. If you don't delete this, then maybe say that has to be within the last 5 years.</p>	<p>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.</p>
6144	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>See letter for proposed language.</p> <p>This would allow for WELO enforcement, special districts, schools and other state agencies to contribute toward procurement target. School districts and park districts provide services to jurisdictions and their residents. WELO is currently enforced by only 27% of jurisdictions in the state. DWR does not have the ability to penalize jurisdictions for lack of WELO enforcement, so</p>	<p>Regarding schools and special districts, the definition of “direct service provider” clarifies that a contract or other written agreement, for example a Memorandum of Understanding (MOU) is required to prove the direct service provider relationship. School districts and other entities (i.e. special districts, parks districts) could be considered a direct service provider if there was a contract or agreement in place with the jurisdiction. Without said contract or agreement, any entities that are not part of the jurisdiction’s departments, divisions, etc. would not by default be</p>



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		<p>implementation is likely to stagnate at a low level. Allowing compost and mulch purchased to satisfy WELO meets the intent of the procurement requirements, which is to build a robust market for organic waste materials. Statewide effective WELO enforcement would affect many more end users to build a more robust and resilient market than putting the onus strictly on local jurisdictions.</p>	<p>considered part of the jurisdiction nor would their procurement count towards the jurisdiction's procurement target..</p> <p>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 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.</p>
6145	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<p>18993.1: Proposed Language: (2) Renewable gas used for fuel for <b>heavy duty transportation electrification. electricity, heating applications, or pipeline injection.</b></p> <p>Rationale: We recommend focusing on the highest and best use for RNG that aligns with other statewide climate goals. RNG will never completely replace natural gas, so developing broad markets for biogas and expanding the infrastructure to maintain it would have the unintended consequence of extending the life of the market for natural gas. This conflicts with statewide electrification to meet state climate goals. The following is a paraphrased comment from City of Oakland: Renewable gas has an important role in making hydrogen to decarbonize heavy duty transportation, as batteries are not the best fit for those applications. However, the state has a goal to electrify all buildings and as much transportation as possible, and there are excellent battery operations for all building applications and most common vehicles. Having a jurisdiction-level purchase requirement for RNG to meet building and light transport needs would be counterproductive.</p>	<p>CalRecycle disagrees that RNG procurement are 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 states that "procurement policies [are] needed to encourage in-vessel digestion projects and increase the production and use of renewable gas (CARB 2017: 68)." The following excerpts from the 2017 Scoping Plan additionally outline how renewable natural gas is viewed as necessary to reduce the state's greenhouse gas emissions:</p> <ul style="list-style-type: none"> <li>• Organic matter can ... provide a clean, renewable energy source in the form of bioenergy, biofuels, or renewable natural gas (CARB 2017: ES12).</li> <li>• Moving forward, reducing use of fossil natural gas wherever possible will be critical to achieving the State's long-term climate goals. For end uses that must continue to rely on natural gas, renewable natural gas could play an important role. Renewable natural gas volume has been increasing from approximately 1.5 million diesel gallon equivalent (dge) in 2011 to more than 68.5 million dge in 2015, and continued substitution of renewable gas for fossil natural gas would help California reduce its dependence on fossil fuels. In addition, renewable gas can be sourced by in-vessel waste digestion (e.g., anaerobic digestion of food and other organics) and recovering methane from landfills, livestock operations, and wastewater treatment facilities through the use of existing technologies, thereby also reducing methane emissions. The capture and productive use of renewable methane from these and other sources is consistent with requirements of SB 1383 (CARB 2017: 66).</li> <li>• Production and use of bioenergy in the form of biofuels and renewable natural gas has the potential to reduce dependency on fossil fuels for the transportation sector (CARB 2017: 89). 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</li> </ul>

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			<p>with the Public Utilities Commission and the California Air Resources Board. This text is reproduced as follows.</p> <p>Section 39730.8... (b) The energy commission, in consultation with the state board and the commission, shall develop recommendations for the development and use of renewable gas, including biomethane and biogas, as a part of its 2017 Integrated Energy Policy Report prepared pursuant to Section 25302 of the Public Resources Code. In developing the recommendations, the energy commission shall identify cost-effective strategies that are consistent with existing state policies and climate change goals by considering priority end uses of renewable gas, including biomethane and biogas, and their interactions with state policies, including biomethane and all of the following:</p> <p>(1) The Renewables Portfolio Standard program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).</p> <p>(2) The Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations).</p> <p>(3) Waste diversion goals established pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code.</p> <p>(4) The market-based compliance mechanism developed pursuant to Part 5 (commencing with Section 38570) of Division 25.5.</p> <p>(5) The [Short-lived Climate Pollutant] strategy.</p> <p>(c) Based on the recommendations developed pursuant to subdivision (b), and to meet the state's climate change, renewable energy, low-carbon fuel, and short-lived climate pollutants goals, including black carbon, landfill diversion, and dairy methane targets identified in the strategy, state agencies shall consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas, including biomethane and biogas.</p> <p>(d) Based on the recommendations developed pursuant to subdivision (b), the commission, in consultation with the energy commission and the state board, shall consider additional policies to support the development and use in the state of renewable gas, including biomethane and biogas, that reduce short-lived climate pollutants in the state..." [Emphasis added]</p> <p>Sections 39730.6 and 39730.8 of the Health and Safety Code were adopted concurrently with Section 42652.5 of the PRC as a part of SB 1383. In compliance with the statute, CalRecycle (a state agency) considered the recommendations of the IEPR, and as appropriate is proposing to adopt regulations that require the procurement of recovered organic waste products including renewable natural gas.</p>
6146	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE 18993.1(f) (3): Add <b>(4) Recycled mulch, that is produced from a permitted facility or generated from green material generated by or at the behest of the jurisdiction.</b>	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
6147	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE 18993.1(f) (3): If procurement targets are going to be based on organics production, rather than demand, the regulations should include mulch in compliant recovered organic waste products to meet the procurement target. This aligns with	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

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		<p>the department's move to include electricity from biomass, also a wood product, to meet procurement targets.</p> <p><b>Allowing mulch, in addition to compost, to meet procurement requirements would give cities an additional compliance option.</b> Many cities cannot meet the target through compost alone due to lack of green space. Established landscapes need top dressing (1/2 inch or 1.5 CY/1,000 sf) and new construction needs 1.3 inches at install and little need for several years. In larger cities, this is exaggerated due to a higher target and less available green space per capita. Wood markets are in trouble. According to regional operators, about 50% of wood was being sent to biomass before the plant closures, and now an increasing amount is used as ADC, and will likely continue to be even after AB 1594 takes effect January 2020.</p>	
6148	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE 18993.1(f) (3): <b>Tracking mulch procurement is realistic.</b> Requiring purchase from a permitted facility, WELO annual reports with total mulch use, or documentation showing on-site generation and use all offer straightforward verification procedures.	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
6149	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE 18993.1(f) (3): <b>Mulch is a product</b> that undergoes pre-processing, chipping/grinding/shredding, screening, and often aged or colorized before being sold. To calculate the procurement target in CY, here are some numbers: the EPA estimates prunings/trimmings bulk density at 127 lb/CY; estimates for mulch range from 400-800 lb/CY. <a href="https://www.epa.gov/sites/production/files/2016-04/documents/volume_to_weight_conversion_factors_memorandum_04192016_508fnl.pdf">https://www.epa.gov/sites/production/files/2016-04/documents/volume_to_weight_conversion_factors_memorandum_04192016_508fnl.pdf</a> <b>Mulch reduces GHG emissions.</b> Fentabil et al (2016) found that mulch application reduced nitrous oxide emissions from bare soil by 28%. Nitrous oxide has a global warming potential of 265-298 over 100 years, according to the EPA	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
6150	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE 18993.1(f) (3): <b>What about RNG?</b> Using RNG to meet requirements works for cities that send organics to AD because they are able to procure "their" gas themselves or through a provider, but there is not enough RNG for cities who choose composting to process organics and achieve the highest and best use of this material by returning it to the soil.	<p>Jurisdictions are not limited to generation of recovered organic waste products from "their" organics to satisfy the procurement requirements. A jurisdiction may procure from any entity provided the end products meet the Section 18982(a)(60) definition of "recovered organic waste products".</p> <p>The comment that there is "not enough" RNG assumes current availability. The procurement requirements are designed to build markets for recovered organic waste products, not keep markets unchanged as the comment seems to suggest. The options available today do not necessarily reflect the options that will be available in the future once the more than 25 million tons of organic waste are diverted and processed. Therefore, revising these regulations to satisfy current availability of recovered organic waste products and current infrastructure would not be forward-looking nor would it match the intent of Article 12.</p>
6151	Sommer, W., StopWaste; Harrington, P., City of Berkeley	RE Section 18993.4: Proposed language: (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 <b>or other electronic records</b> for all <b>printing and writing</b> paper purchases.	CalRecycle has revised Section 18993.4(a)(1) to allow proof of purchase other than receipts and invoices to be used.

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6152	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE Section 18993.4: 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.	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. Regarding the definition of paper products, a change to the regulatory text is not necessary. 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.
6153	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE Section 18993.4: From Alameda County: <b>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.</b>	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.
6154	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	RE Section 18993.4: 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.	CalRecycle has revised Section 18993.4(a)(1) to allow proof of purchase other than receipts and invoices to be used.
6155	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18994.2 Proposed language: 2) The number of food recovery services and organizations located and operating within the jurisdiction that serve commercial <b>edible</b> food generators. Rationale: Fix to align with definition of commercial edible food generator.	CalRecycle has revised Section 18994.2 in response to this comment. Section 18994.2 is changed to include "edible" in commercial edible food generators.
6156	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18994.2: Proposed Language: j) A jurisdiction shall report the following regarding its implementation of the procurement requirements of Article 12: 1) The volume of each recovered organic waste product procured directly by the <del>city, county</del> jurisdiction, <del>or</del> through direct service providers, <b>or through other entities at the behest of the jurisdiction, or both</b> during the prior calendar year. 2) <b>How the jurisdiction is meeting the recycled content paper procurement requirements in the prior calendar year. The total dollar amount spent on all paper purchases.</b> 3) <del>The total dollar amount spent on all recycled content paper purchases.</del> Rationale: Allow for jurisdictions to get credit for getting other entities such as school districts or special districts in their jurisdiction to procure recovered organic waste product at their behest. Also, since the recycled paper procurements have changed so that it no longer requires 75% of paper purchases to be recycled content, what's reported annually needs to change. Many office paper products are bought from office suppliers and the jurisdiction may not be able to separate out	The definition of "direct service provider" clarifies that a contract or other written agreement, for example a Memorandum of Understanding (MOU) is required to prove the direct service provider relationship. School districts and other entities (i.e. special districts, parks districts) could be considered a direct service provider if there was a contract or agreement in place with the jurisdiction. Without said contract or agreement, any entities that are not part of the jurisdiction's departments, divisions, etc. would not by default be considered part of the jurisdiction nor would their procurement count towards the jurisdiction's procurement target. Regarding recycled content paper purchases, 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. CalRecycle has also revised the regulatory language to delete the reporting requirements for paper purchases and recycled content paper purchases.

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		which of the products purchased were paper products versus plastic or other products.	
6157	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18996.1 Proposed Language: b) In conducting a compliance evaluation, the Department shall review the jurisdiction's Implementation Record and <del>conduct</del> <b>documentation of</b> inspections, compliance reviews, and route reviews. Rationale: The way it's worded currently makes it seem like the Department will be conducting it's own route reviews, etc.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
6158	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18997.2 Proposed Language: Record Keeping Requirements for Edible food Recovery Services and Organizations: A food recovery organization or service that collects or receives edible food from commercial <b>edible</b> food generators fails to keep records, as prescribed by this section. Rationale: To align with definition of commercial edible food generators.	CalRecycle has revised Section 18994.2 in response to this comment. Section 18994.2 is changed to include "edible" in commercial edible food generators.
6159	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	18998 Proposed Language: Provide alternative based on existing programs. Rationale: Jurisdictions might be able to meet the 50 percent recovery at transfer stations, but would not be able to meet the 10% limit on organics in overs sent to disposal/ADC at compost facilities. Most compost facilities are shared by multiple jurisdictions, so even if a jurisdiction meets all the other requirements, if that jurisdiction's organics are going to a shared facility that has less clean material coming in, they would not meet this requirement and would have little control over what the facility does, or how their hauler responds to the situation.	Comment noted. The final regulatory language was amended to make the contamination standards of Article 17 jurisdiction-specific. The recovery efficiency standards are facility specific as CalRecycle is precluded from establishing jurisdiction-specific recovery targets. Further establishing jurisdiction-specific recovery targets is infeasible for material that is composted as the origin of the material cannot be identified. If a jurisdiction is not able to identify a facility that can meet the recovery efficiency standard, it can comply with the regulations through one of the compliance options in Article 3.
6160	Sommer, W., StopWaste; Harrington, P., City of Berkeley; Erlandson, J., City of Livermore	<b>Delete item 4.</b> This prescriptive requirement is redundant to the performance-based requirements of Section 18998.1(a)(1) which requires that organics be provided to 90% of generators. It should not matter how a jurisdiction goes about meeting that target. Also, there are logistical problems with autoenrollment, such as determining cart and bin size, renting vs owning and account holder, shared accounts, etc.	Comment noted. Jurisdictions are not required to pursue compliance with the collection requirements through Article 17 if the jurisdiction is not able to ensure that 90 percent of generators have service. It is important to clarify that jurisdictions are required to provide collection services to generators. Offering an organic waste collection subscription is not equivalent to requiring participation in service. A jurisdiction may comply through providing a collection service that complies with the requirements of Article 3 which allows jurisdictions to provide waivers on a case-by-case basis.
6161	Sommer, W., StopWaste; Harrington, P., City of Berkeley	RE (C) <b>Delete or allow city to take action on facility.</b> The wrong entity is penalized by this measure. The jurisdiction is penalized for the facility being out of compliance, but does not have control over the facility's actions. Most jurisdictions contract with a hauler and the hauler contracts with a facility, which contracts with multiple haulers and serves many jurisdictions. If a jurisdiction sends its very clean organics to a facility that starts accepting less clean organics, the jurisdiction with the clean organics is effectively punished for the actions of another.	Comment noted. The final regulatory language was amended to make the contamination standards of Article 17 jurisdiction-specific. The recovery efficiency standards are facility specific as CalRecycle is precluded from establishing jurisdiction-specific recovery targets. Further establishing jurisdiction-specific recovery targets is infeasible for material that is composted as the origin of the material cannot be identified. If a jurisdiction is not able to identify a facility that can meet the recovery efficiency standard, it can comply with the regulations through one of the compliance options in Article 3.
3160	Stein, A., Environmental Health Trust	<b>Please delete from these regulations the allowance to insert "plastic bags" (see regulation pages page 18,20,21,22,55,and 127) into the source separated organic material containers.</b> Please do not give jurisdictions any special permission to allow generators to put (non-compostable) plastic bags into the organic's green bin. This is a terrible new addition because it leads to toxic contamination. Please allow only compostable materials including if necessary plastics that meets ASTM D6400	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

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		<p>standard to be put in with source separated organics in the green collection containers. There is much peer reviewed science already published to assert that it has been found that plastics may leach toxic chemicals into the organic materials and will contaminate source separated organics.</p>	<p>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. 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.</p> <p>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).</p> <p>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. Thank you for the comment. Part of the comment is in support of the current language.</p> <p>Existing Public Resources Code already specifies that that all compostable plastic products be labeled "compostable," with reference to applicable standard specifications, including ASTM D6400 and D6868.</p> <p>Nothing precludes a jurisdiction from requiring compostable plastic to meet third party requirements in addition to those in Sections 18984.1(a)(1)(A) and 18984.2(a)(1)(C). CalRecycle will clarify this in the FSOR.</p> <p>In regards to eliminating compostable plastics, CalRecycle determined that it would be acceptable if these materials are placed in green or blue containers if the materials meet appropriate standards and the receiving facility accepts the materials for purposes of recycling. Nothing in the</p>

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			regulations precludes a jurisdiction from limiting these materials and nothing precludes a facility from not accepting these materials. While it is not clear that rigid compostable plastics can be readily used in composting operations given the timeframes needed for the materials to decompose, there may be technology changes in the future that allow rigid compostable plastics to be recycled/composted more readily.
3161	Stein, A., Environmental Health Trust	<b>Please fully UPHOLD Section 17409.5.6 that clearly states –“Source separated organic waste processing shall be kept separate from other solid waste streams.” (see page 118)</b> This section and its text was specifically written to keep the Source Separated Organics (SSO) CLEAN!!. We beg you not to allow SSO to be mixed with dirty and contaminated Remnant Organics Materials (ROM) removed from mixed waste rubbish, garbage, trash! This is a bad idea to contaminate clean SSO with disgusting contaminated ROM from mixed waste! Mixing SSO with ROM pollutes the SSO and defeats all of costs and efforts of source separation and gives way to waste industry’s desire to pollute clean green organic materials!! Section 17409.5.6 clearly states that SSO SHALL BE KEPT SEPARATE please stick with this text and please take out and clean up all confusing contrary text statements; Please do not include double talk that undermines the intent of the section. Please under no uncertain terms keep remnant organic material (ROM) away and out of all SSO collection, processing, and composting steps. The solution to pollution is NOT dilution! Keep organics clean and green; support source separated organics and avoid contamination and destruction of compost quality from mixing SSO with dirty MRF contaminated ROM!	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.
3162	Stein, A., Environmental Health Trust	Please add provisions to keep pre-1924 organic lumber and all toxic treated wood out of the landfill and incineration to collect and store it separate from other C&D products especially concrete. We ask that you add the use of labels for roll off and commercial containers to keep good dimensional reusable lumber and arsenic treated wood separate from other C&D. We ask that you please require jurisdictions to include provisions for the collection of pre-1924 dimensional lumber and treated wood to avoid landfilling and incineration. Please require jurisdictions to implement best practices and guidelines for pre 1924 buildings to implement destruction to collect any old growth reusable structural lumber and other wood products to avoid them from being landfilled, incinerated, or destroyed. (see page 118)	This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a> CalRecycle will clarify will provide jurisdictions the guidance from DTSC. For the comment about pre-1924 organic lumber, the ‘organic lumber’ is organic waste and will be subject to the recycling requirements in Article 3.
3163	Stein, A., Environmental Health Trust	Please fully promote and support backyard and community composting. Please do not penalize people from engaging in composting themselves within their community. <b>Please add exceptions/allowances (see § 18998.2 Compliance Exceptions) that clearly articulates that no person may be prohibited from:</b> <b>Preventing or reducing waste generation</b> <b>Managing organic waste on-site</b> <b>Using a community composting site</b> <b>Transporting organic waste to or from a community composting site</b> <b>Selling any compost or soil amendment made in backyard or community composting site.</b>	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 noted. CalRecycle acknowledges the

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			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.
4454	Sullivan , SCS Engineers on behalf of Waste Management	<p>We have serious concerns with one particular section (27 CCR 21695) of the proposed regulation, which would severely alter well-established practices for use of intermediate cover at active landfills in California apparently aimed at managing fugitive emissions of methane from these areas based on a dearth of scientific data and absolutely no cost benefit analysis</p> <p>The Initial Statement of Reasons discussed long term intermediate cover (Section 20700.5) indicating “the purpose of this section is to require 36 inches of earthen material on surface fills where no solid waste will be placed within 30 months. 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.” WM and other stakeholders submitted comments addressing significant concerns with the proposed requirement for 36 inches of intermediate cover and CalRecycle deleted this section in its entirety.</p> <p>We believe CalRecycle’s deleting the 36 inches of intermediate cover requirement in section 20700.5 and then adding a requirement to evaluate intermediate cover compared to final cover is unfair and unsupported by the rulemaking process. Changing longstanding intermediate cover requirements to address CalRecycle’s apparent concern that these areas contribute more fugitive methane emissions compared to areas with final cover should be based on sound scientific principles with ample input and discussion from all stakeholders. We strongly suggest that changes in intermediate cover requirements be addressed under separate rule making, not by adding a last-minute change of this magnitude in a second draft of the proposed rule. We are not aware of any discussions between CalRecycle and stakeholders concerning a comparison of intermediate cover to final cover during the 2 years since the start of the informal rulemaking process.</p>	The provisions at issue in the comment were deleted from the regulatory language in response to comments.
4455	Sullivan , SCS Engineers on behalf of Waste Management	Specifically, changes to Section §21695 (Organic Disposal Reduction Status Impact Report) of Title 27 California Code of Regulations (CCR) goes well beyond the goal of SB1383 to achieve a 50 percent reduction in the level of statewide disposal of organic waste by 2020 and a 75 percent reduction by 2025. This section not only imposes significant costs on landfill operators to prepare a Status Impact Report (SIR) associated with impacts from implementation of state organics disposal reduction requirements; but also, requires conducting an impact analysis of the effectiveness of intermediate cover as compared to final cover. The provisions in this Section mandate developing a plan for intermediate cover that would ensure it is as effective as final cover, which would essentially require final cover in all areas where intermediate cover is used beyond the mandated time threshold. This would	CalRecycle has revised Section 21695 in response to comments. This section was revised to deleted Subdivision (i), removing the requirement for operators to conduct an impact analysis of the effectiveness of intermediate cover compared to final cover and develop a plan for intermediate cover to be as effective as final. This was necessary to lessen the operator’s burden. 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 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.



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		require significant additional capital and operating cost for landfill operators and would inevitably lead to increased tipping fees at landfills.	
4456	Sullivan , SCS Engineers on behalf of Waste Management	<p>Section §21695</p> <p>In addition, the completeness criteria are not defined, which could lead to inconsistent review subject to regulatory agency judgement as opposed to a clear set of requirements. If amendments to the Joint Technical Document (JTD) are required, as a result of the SIR, this could also lead to requirements to amend the solid waste facility permit (SWFP) and potentially trigger California Environmental Quality Act (CEQA) re-examination, which would be an additional burden. As noted above, the proposed rule language is likely to cause a significant and costly change to how cover is applied at landfills in California. It would dramatically alter existing regulatory requirements and decades of precedent regarding intermediate cover and result in a significant increase in landfill disposal costs and possible closure of many landfills.</p>	<p>A change to the regulatory text is not necessary. Section 21695(e) establishes the criteria used to make the determination of completeness.</p> <p>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 pertaining to permit actions.</p>
4457	Sullivan , SCS Engineers on behalf of Waste Management	<p>This requirement is highly infeasible for numerous reasons including time needed to install the cover system, destroying the site soil balances, costs to install, costs to remove cover system for future filling, and further costs to re-install the final cover system in the next intermediate cover layer. WM has 11 active MSW landfills in California with over 1,290 acres of intermediate cover area and the cost to install final cover would be more than \$108 million. Landfills are built in layers/phases over many years necessitating periods of time in the intermediate cover state, removal of intermediate cover for further filling and then replacing the intermediate cover on new areas that will remain dormant for a period of time. This process may be repeated several times over the life of a typical California landfill. Requiring final cover systems in the intermediate cover state is not practically possible, economically feasible and will actually increase greenhouse gas (GHG) emissions in the short term. The typical final cover system requires 3 feet of clay soil compacted, a 60-mil high-density polyethylene (HDPE) layer, and 1 to 2 feet of vegetative soil. This represents over 6,450 cubic yards of soil per acre. Since it takes 10 pieces of construction equipment 1 week to place an acre of final cover the GHG emissions from the equipment alone is approximately 23 tons/acre. Such a drastic change should not be considered in a seemingly unrelated SLCP rulemaking. Instead, if CalRecycle would like to reconsider cover practices under CCR Title 27, it should do so in a separate rule making dedicated to just this topic.</p>	<p>The provisions at issue in the comment were deleted from the regulatory language in response to comments.</p>
4458	Sullivan , SCS Engineers on behalf of Waste Management	<p><b>The proposed rule does not define “effectiveness” or “purpose” or “cost effectiveness” of the requirements of Section §21695.</b> This should not be left to the judgement of the individual regulatory reviewer. Section §21695 (i) requires a professional engineer or certified engineering geologist to conduct a study and certify that the intermediate cover system is as effective as a final cover system. A professional engineer will not be able to demonstrate that a 1-foot intermediate cover system is as “effective” as a multi-layer final cover system with a HDPE membrane. As “effectiveness” is not defined, nor is a degree of “effectiveness” as</p>	<p>CalRecycle has deleted Section 21695(i) in response to comments.</p>

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		<p>compared to a final cover defined, it is impossible for the professional engineer to conduct the study or demonstrate that intermediate cover is acceptable compared to final cover.</p>	
4459	Sullivan , SCS Engineers on behalf of Waste Management	<p>Section §21695(i) The rule is also confusing with references to gas migration sections of CalRecycle rules. There is no consideration of other site characteristics such as active gas collection systems, which create a vacuum within the waste mass, thereby reducing fugitive emissions. A more comprehensive approach that combines intermediate cover and surface emission limits would appear to be easier to implement and achieve the desired goal.</p>	<p>CalRecycle has revised Section 21695 in response to comments. This section was revised to deleted Subdivision (i), removing the requirement for operators to conduct an impact analysis of the effectiveness of intermediate cover compared to final cover and develop a plan for intermediate cover to be as effective as final. This was necessary to lessen the operator's burden.</p>
4460	Sullivan , SCS Engineers on behalf of Waste Management	<p>Section 20700.5 Prior to any rule making on intermediate cover, CalRecycle should convene a working group of experts on this issue and conduct a series of workshops to engage stakeholder and determine the most cost-effective approach. And this should include a detailed analysis to assess the reductions in SCLP emissions that are expected to occur with this regulatory change as well as the increases in capital and operating costs that would result. CalRecycle can then calculate the cost effectiveness of the GHG reductions on a cost per metric ton basis. At the same time, Cal Recycle must assess the cost and other impacts on the overall solid waste system in California, especially the increases in landfill tipping fees that will result.</p>	<p>CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.</p>
4461	Sullivan , SCS Engineers on behalf of Waste Management	<p>We wish to emphasize that 27 CCR already contains well established provisions regulating landfill cover practice and requirements as related to intermediate cover. These requirements have been in place for decades and successfully used to demonstrate compliance with 27 CCR. The proposed regulations are intended to address SLCP associated with organic waste reduction, in this case, specifically methane from landfill gas (LFG) emission. No data is presented in the rulemaking materials, which documents exactly how and by what amount these requirements would reduce SLCP and whether current intermediate cover practices are actually a source of elevated SCLP emissions. Without these data, there is no basis for these provisions in the SLCP regulation.</p>	<p>The provisions at issue in the comment were deleted from the regulatory language in response to comments.</p>
4462	Sullivan , SCS Engineers on behalf of Waste Management	<p>The proposed regulation discusses GHG reductions but appears to reference other 27 CCR provisions related to subsurface gas migration under Section 20921. There is no data or information to support a contention that subsurface LFG migration has any relevance or impact on the surface emissions of SLCP. In fact, we know of instances where subsurface LFG migration actually increased after a final cover was employed. The presence of LFG migration at the permitted facility boundary may have no bearing on the emissions of SLCP, and thus it should not be used as a criterion in comparing intermediate and final cover in terms of surface emissions of methane.</p>	<p>The provisions at issue in the comment were deleted from the regulatory language in response to comments.</p>

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4463	Sullivan , SCS Engineers on behalf of Waste Management	<p>Section 20700.5  Requiring thicker or more impermeable intermediate covers could have long term negative effects to overall gas collection. If these intermediate cover layers are not removed, this would create individual confined waste cells that result in significantly less effective gas and leachate collection systems, as the lower permeable covers become impediments to gas and liquid movement. This could actually increase surface emissions of methane from the shallow refuse. Also, there are several case studies of landfills that have struggled with perched leachate due to interim wet weather decks left in place and thickened intermediate cover placement. These accumulated liquids also adversely affect the LFG collection system, which can result in excess surface emissions. The industry's focus should be on promoting better liquids drainage through the landfill which will result in more effective gas collection, and better leachate management resulting in reduced GHG emissions.</p>	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
4464	Sullivan , SCS Engineers on behalf of Waste Management	<p>This proposed rule as written would have drastic impacts to the site soil usage and ultimately the site soil balances. Although some of the intermediate cover would be able to be reused, there would be considerable soil that would be wasted, affecting sites remaining airspace and also the sites soil balance. This occurrence will significantly increase operating costs and reduce the value of the landfill assets. Sites without a sufficient supply of clean soil to meet these needs would have to transport cover soils from off-site, which would have its own environmental impacts including increased GHG emissions, and/or they would have to employ even more costly synthetic covers as intermediate cover.</p>	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
4465	Sullivan , SCS Engineers on behalf of Waste Management	<p>The proposed regulation has the following language:  “If the study indicates that the intermediate cover is not as effective as final cover then the operator shall provide a revised intermediate cover design that would be as effective as final cover. The revised design shall be submitted with the study”  To begin with, one could argue that no intermediate cover will be as effective as final cover in an absolute sense, so if that is the criteria, then all California landfills would have to begin using final cover as intermediate cover to comply. As written, the proposed regulation could be interpreted that way by any local enforcement agency (LEA) that want to impose more stringent cover requirements. In California, most final cover designs are 4-5 feet thick evapo-transpiration (ET) covers with stringent soil permeability requirements or synthetic covers comprised of various soil layers and a geosynthetic material. Simply stating that intermediate cover should be as effective as final cover is extremely impractical as it would be impossible to prove equivalence without a large amount of analysis, testing, construction quality assurance (CQA) and cost to achieve the equivalence. Those costs might include:  Soil screening: Most final covers must be screened to achieve permeability and gradation requirements</p>	CalRecycle has revised Section 21695 in response to comments. This section was revised to deleted Subdivision (i), removing the requirement for operators to conduct an impact analysis of the effectiveness of intermediate cover compared to final cover and develop a plan for intermediate cover to be as effective as final. This was necessary to lessen the operator's burden.

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		<p>Importation of lower permeability soil: Many final covers require soils with more clay or other admixtures to achieve the lower permeability. This might require import of admixtures or different soil materials</p> <p>Conducting CQA to prove equivalence.</p> <p>Increased soil movement and placement: Higher operating costs due to transporting 2-4 times more soil to place the intermediate cover and then 2-4 times more equipment and run hours to remove and stockpile the soil again. Sites would need to drastically increase the number of heavy equipment onsite</p>	
4466	Sullivan , SCS Engineers on behalf of Waste Management	<p>Section 20700.5</p> <p>As a separate but related issue, removal of a thicker final cover to place waste and then replacement of the cover later will result in an increase in particulate emissions from dust during soil management as well as an increase in diesel emissions in particular carcinogenic diesel particulate emissions from additional heavy equipment use. We did not see any evaluation of the ancillary negative impacts of this regulation on emissions.</p>	CalRecycle has deleted the Long-Term Intermediate Cover, Section 20700.5 in response to comments.
4467	Sullivan , SCS Engineers on behalf of Waste Management	<p>In our experience, intermediate cover has been effective in almost all cases in preventing excess surface emissions, with the exception of areas in need of additional LFG extraction which have nothing to do with the type of cover. Data from surface emissions monitoring (SEM) under both state and federal rules confirms we see very few locations in the intermediate covers, which exceed the 500 parts per million by volume (ppmv) methane threshold with the exceptions of cover penetrations (e.g. gas well locations), which can show exceedances regardless of final vs. intermediate cover. Those exceedances are localized and are easily repaired.</p>	CalRecycle has revised Section 21695 in response to comments. This section was revised to deleted Subdivision (i), removing the requirement for operators to conduct an impact analysis of the effectiveness of intermediate cover compared to final cover and develop a plan for intermediate cover to be as effective as final. This was necessary to lessen the operator's burden.
4468	Sullivan , SCS Engineers on behalf of Waste Management	<p>The proposed regulation suggests that SEM results from compliance with the AB 32 Landfill Methane Rule (LMR) under 17 CCR would be used to assess the equivalency of intermediate versus final cover. However, CalRecycle proposes no specific criteria and the discretion is left solely to CalRecycle or the LEA to determine equivalency. Our concern is that with this vague criterion, an agency could claim that an intermediate cover is not equivalent to a final cover. For example, if the intermediate cover has one more 500 ppmv exceedance than the final cover area, regardless of successful cover repair actions it would need to be upgraded to final cover. The only reasonable SEM criterion is to link to compliance with the LMR. If the landfill operator can find and fix the exceedances in the time frames allowed by the rule (that is, achieve compliance) for the intermediate cover area, then that should mean the intermediate cover area is effectively minimizing emissions and thus is equivalent to final cover.</p>	CalRecycle has revised Section 21695 in response to comments. This section was revised to deleted Subdivision (i), removing the requirement for operators to conduct an impact analysis of the effectiveness of intermediate cover compared to final cover and develop a plan for intermediate cover to be as effective as final. This was necessary to lessen the operator's burden.
4469	Sullivan , SCS Engineers on behalf of Waste Management	<p>WM and SCS appreciate the opportunity to provide these comments. <b>WM requests that CalRecycle remove the recently added and onerous requirements in Section 21695 (Organic Disposal Reduction Status Impact Report) requiring evaluation of intermediate compared to final cover which will ultimately lead to installation of final cover on intermediate cover areas and expenditure of tens of millions of</b></p>	The provisions at issue in the comment were deleted from the regulatory language in response to comments.

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		<b>dollars based on inadequate stakeholder feedback, lack of a cost-benefit analysis and the lack of a clear process to determine equivalence.</b>	
4306	Tan, Zero Waste Sonoma	Under General Provisions, Section 18981.2 (d), pg 3 says that jurisdictions can't delegate authority to impose penalties. My Agency (Zero Waste Sonoma) is a JPA representing 10 different jurisdictions. Under the definition of a "Jurisdiction", it says that JPAs can be used to comply with requirements. Would using a JPA for enforcement constitute delegation?	A change to the regulatory text is not necessary. Section 18981.2(d) states a jurisdiction cannot authorize the delegation of imposing civil penalties, or maintain an action to impose civil penalties, to a private entity. A Joint Power Authority is defined whereby two or more public authorities (e.g. local governments, or utility or transport districts) that jointly exercises any power common to all of them.
4307	Tan, Zero Waste Sonoma	Under Article 3, Section 18984.6 (4), pg 25, it says, "Documentation of the number of containers disposed..." Can someone please clarify that sentence? Does it refer to the number of truckloads of recyclables/organics sent to landfill because they were deemed too contaminated?	The text refers to the number of containers.
4308	Tan, Zero Waste Sonoma	Also under Article 3, Section 18984.11 (c), pg 28, would it be acceptable for JPAs to issue exemption waivers to organic material generators?	JPAs are included the definition of 'Jurisdiction' in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.
4309	Tan, Zero Waste Sonoma	Under Article 13, Section 18994.1 (3), pg 54 and Article 17, Section 18998.3, pg 96, would the contact person you require be from each of the individual jurisdictions, or would a person from the JPA representing these jurisdictions suffice?	A change to the regulatory text is not necessary. If a Joint Powers Authority is being utilized to comply with the chapter, an employee of the JPA may be reported as the contact person.
3134	Tseng, E.	Section 18993.1. "Brown container" means a container where the lid of the container is entirely brown in color. Hardware such as hinges and wheels on a brown container may be a different color. Un-necessary detail. Brown is already utilized for many other uses by jurisdictions, e.g., a brown bin is used for manure collection in the City of Los Angeles. Let jurisdictions pick their own color for organics.	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.
3135	Tseng, E.	(14.5) "Designated Source Separated Organic Waste Facility" Setting a minimum threshold to be qualified as a specific facility will place the facility's designation on market conditions and not on what the facility can actually recover is problematic. The current recovery effectiveness utilizes the disposal amount (which is a "destination-based" approach). Facilities do not control the level of contamination that is picked up in the source separated program. Typical levels of contamination in a source separated program can be over 35%. To get the higher level of "quality" in the output products", it may be necessary to recover less recoverable material in order to meet the product standards and or contamination standards. Another scenario is that a facility cannot recover enough tonnage due to a breakdown of equipment, or have to operate in direct transfer to disposal mode which results in less than the threshold requirement. Process lines may be shut down for weeks if major repair or maintenance is required. An overall facility recovery rate is not indicative of a specific processing line and input feedstock. A facility may have a very effective organics processing line, but also have a mixed waste line and or a blue bin line that does not recover the	Facilities are not strictly required to demonstrate that they meet or exceed the standards of a "designated source separated organic waste recycling facility." If the facilities recovery efficiency exceeds the standards of a "designated source separated organic waste recycling facility" a jurisdiction that implements a performance-based source separated organic waste collection service, may transport source separated organic waste to that facility. If a facility does not exceed the recovery efficiency standards of a designated source separated organic waste recycling facility, a jurisdiction implementing a performance-based source separated organic waste collection service can not send source separated organic waste to that facility. The recovery standards are established as the minimum standards necessary to achieve the purpose of the statute, see statement of purpose and necessity for Section 18982 (a)(14.5). Further the standards are intended to improve performance over current levels, which is necessary to achieve the statutory targets. However, a facility is not required to meet a specific standard, however if it does not meet a standard the types of collection services that can deliver waste to that facility may be limited. Comment noted. CalRecycle agrees with the premise of the comment that facilities should not have an overall facility rate and the recovery rate should be specific to the type or organic waste collection stream handled. Notably, the definition of a designated source separate organic waste facility includes:

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		<p>required 50% or 75% threshold. The combined recovery rate of a facility can be under the required threshold even if the organics recovery portion is recovering well over the threshold amounts. (this comment applies to all of the sections that discusses the requirement of an overall facility recovery rate).</p> <p>A "facility" can have many different types of processing lines, e.g., a blue bin line, a mixed waste MRF recovery line (which can run in a hybrid mode and also process blue bin materials and or mixed waste to recovery recyclables, a C &amp; D line, and a greenwaste/yardwaste/wood processing line). Using an overall "facility rate" for determining whether it qualifies as a "designated organic waste processing facility" will be problematic when the other lines may not be able to recover the 50% or 75% tonnages.</p>	<p>"a "transfer/processor," as defined in Section 18815.2(a)(62), that is in compliance with the reporting requirements of Section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to Section 18815.5(f) for organic waste received from the source separated organic waste collection stream." (emphasis added).</p> <p>Per section 17409.5.5, recovery from the source separated organic waste collection stream is conducted separately, and per 17409.5.6 organic waste must be kept separate from other solid waste streams. CalRecycle will provide guidance as the regulations are implemented.</p>
3136	Tseng, E.	<p>Section 18983.1 Landfill Disposal and Recovery.</p> <p><b>"Cover material does not include organic waste" needs to be defined.</b> How is this determined, e.g., waste characterization, laboratory tests e.g., biological methane potential, ultimate/proximate analysis, etc.? Is this limited to the SB 1383 targeted materials defined in the statute?</p> <p>A waste characterization of ADC can be very problematic. The following are pictures from a CalRecycle training session regarding MRF fines. We are illustrating that residuals that are inorganic specific (called Pre 3-mix) material to which is typically sent to a beneficiator to recover almost 50% by weight of glass in that "MRF residue", and this residue has a lot of organics. And,.. even when most organics are removed by state of the art technology, there still organics remaining (second picture), can never totally remove organics. Current ADC of MRF fines contain organic material because it is impossible to remove all organics. The waste characterization of MRF fines is literally done with tweezers and would be problematic as a requirement to analyze MRF fines. These pictures are MRF fines from an actual "tweezer sort" that I personally did for a potential enforcement action related to facility permitting. NOTE: SEE LETTER for pictures.</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>
3137	Tseng, E.	<p>Section 18993.1. Recovered Organic Waste Product Procurement Target [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</p> <p>Digestate from and AD facility is often used as part of a feedstock in a composting facility or can be beneficially utilized in land application uses. A jurisdiction should be allowed to get credit for purchasing digestate that is land applied, or as a feedstock for making compost. Digestate can also be utilized to make biochar, a jurisdiction should get credit for purchasing digestate for a facility that produces biochar which can be used to replace the carbon content in soil, and or to high grade the carbon content in compost. Jurisdictions should get credit for digestate utilized in producing a product that is beneficially utilized,</p>	<p>Compost produced at a facility identified in 18993.1(f)(1) constitutes a recovered organic waste product. The facilities identified in that section are:</p> <p>"(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this division; or</p> <p>(B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]"</p> <p>Those identified facilities could use digestate as a feedstock to produce compost. However as identified in the note in the regulatory text in Section 18993.1, digestate itself is not compost and is not a recovered organic waste product. Digestate, like food waste, and green material is an organic material and it is appropriately defined as organic waste in the regulations. The note referenced above was included to clarify that items defined as organic waste in the regulations, and "recovered organic waste products" such as compost and mulch should not be confused as</p>

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			<p>equivalents, and that incentivizing procurement of organic waste recycling byproducts is not the intent of the regulations.</p> <p>CalRecycle disagrees with the commenter’s recommendation to allow the purchase of digestate to produce biochar due to lack of verifiable conversion factors. 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>
3138	Tseng, E.	<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 Material in Residuals Removed from Mixed Waste Organic Collection Stream for Disposal</p> <p>Comment (applies to all recovery efficiency calculations):</p> <p>Do not recommend specifying details of sampling, the technical goal is to get “representative sampling”. Note, many jurisdictions will have routes that will be serviced in less than a week (only collect in three days), so a ten day sampling period is not applicable.</p> <p>Haulers and facilities in Los Angeles (contract requirements) allow the haulers and facilities to develop sampling plans (also have an automated sample selection tool/protocol that is a default) that selects the samples from their “routes” and the facilities’ incoming/outgoing facility waste streams.</p> <p>Since these characterization studies are also utilized for determining the recovery efficiency of a mixed Waste Organics collection and also for determining the recovery efficiency of a mixed waste / organics processing facility, ... it must be noted that some facilities will be designed and operated to target specific types of organics,... e.g., food waste (e.g., recovery of food waste for anaerobic digestion for biogas production), and will not be targeting “other SB 1383 “targeted organics” as part of its operations, for example, if processing for recovery of food waste, that facility will not be designed for recovery of non-recyclable paper, woody waste, etc. So, basically a mixed waste organics processing facility can recover about 80% of the food waste (because the facility is designed to do that), but does not recover the small amount of recyclable paper left in the black bin, and does not recover any of the non-recyclable paper, so the overall recovery of all targeted organics is only 45%,... so this facility does not qualify as a “high diversion rate” facility.</p> <p>The non-targeted materials should not count against the recovery efficiency of the targeted materials of which the facility is specifically designed to recover. Removing every little bit of organics will help reduce GHG emissions from landfills, but the regulatory requirement is that all targeted organics is part of the denominator of a recovery efficiency requirement, no facility that is only targeting a single material such as food can ever recover 50% or 75% of all of the targeted SB 1383 organics that is being processed through a mixed waste processing facility.</p> <p>Please also consider the previous comment regarding the fact that a lot of existing facilities have multiple types of process lines, each designed for specific purpose (not just targeting food waste). CalRecycle should also consider that many facilities</p>	<p>A change to the regulatory text is not necessary. The sampling requirements in these sections requires the samples to be done over a period of 10 consecutive operating days, not by jurisdictions.</p> <p>Regarding the recovery efficiency:</p> <p>A change to the regulatory text is not necessary. A facility’s efficiency is based on how much organic waste it recovers versus how much organic waste it sends out to disposal. A facility will need to find additional markets for materials recovered from source-separated and mixed organic waste streams or perform additional recovery activities as described in Section 18983.1(b). It can also 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 or cease accepting mixed waste and only receive waste from source-separated collection streams. 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>

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		<p>are adding “organics recovery unit processes (or modules) to existing MRF recycling processing lines so they can additionally recover food waste. This is not a specific organics recovery line, but a line that can extract as much as possible the materials that have markets. Setting a recovery threshold that disqualifies a facility or even a line has the unintended consequences of discouraging development of facilities that can make incremental recovery of materials from the wastestream.</p> <p>CalRecycle needs to recognize that mixed waste processing and recovery of organics supplements a source separated program, and can be way more cost effective than a source separated program, and should be developing regulations that support a complementary approach to source separated recovery of organics. This is the approach successfully utilized in the European Union and in Asia.</p> <p>For real life cost implications,..... See below:  From New York: <a href="https://cbcny.org/advocacy/update-citys-organics-collection-program">https://cbcny.org/advocacy/update-citys-organics-collection-program</a>  City collections of organics are averaging only about one to two tons per truck-shift—compared to 9.3 tons of refuse and 5.5 tons of recycling on each truck shift. Given the low tonnage per truck shift and fixed cost to operate a truck, <b>the cost of Organics collection is likely more than \$1,700 per ton</b>, compared to \$291 per ton of refuse and \$686 per ton of recycling.</p>	
3139	Tseng, E.	<p>Section 18983.1 Landfill Disposal and Recovery  Title 27 Sections 20690 and Section 20700 does not contain a provision for a “test” for demonstrating that an approved material recovery fines does not include organic material. From a practical standpoint, it is almost impossible to not have MRF fines not include some form of “organics”. Please specify what procedure (e.g., waste characterization, biological methane potential, etc.) is to be utilized by the operator and reviewed by the Local Enforcement Agency.</p> <p>CalRecycle may want to consider what is a minimum amount (threshold) that would be allowed. FYI,... having done waste composition analysis on minus 2” MRF residuals, that is not a very practical methodology.</p> <p>Basically, this provision is excluding material recovery fines (unless it is only crushed inerts and or other non-organic material. CalRecycle should specify that non-organic means the SB 1383 list of targeted materials.</p> <p>Note that ADC such as compost and other materials that have organic content do have a beneficial impact on GHG emissions from landfills, e.g., organic materials have a “biofiltering” impact on landfill gases, and can actually react chemically to reduce the overall amount of methane being emitted into the atmosphere.</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>
3140	Tseng, E.	<p>Section 18984.5. Container Contamination Minimization  The non-targeted materials should not count against the recovery efficiency of the targeted materials of which the facility is specifically designed to recover. The regulatory requirement is that all SB 1383 targeted organics is part of the denominator of a recovery efficiency requirement, no facility that is only targeting a</p>	<p>A change to the regulatory text is not necessary. A facility’s efficiency is based on how much organic waste it recovers versus how much organic waste it sends out to disposal. A facility will need to find additional markets for materials recovered from source-separated and mixed organic waste streams or perform additional recovery activities as described in Section 18983.1(b). It can also choose not to recover organic waste that is processed and leave it in their residual waste</p>



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		single material such as food can ever recover 50% or 75% of all of the targeted SB 1383 organics that is being processed through a mixed waste processing facility.	stream, however, that will negatively affect their recovery efficiency or cease accepting mixed waste and only receive waste from source-separated collection streams. 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.
3141	Tseng, E.	Section 18995.1. Jurisdiction Inspection and Enforcement Requirements This is a ridiculous requirement as you would need a generation based waste composition study (AB 939 “disposal + diversion” analysis) to get an accurate picture of the actual progress made in light of the potential increase in population and or the growth of commercial businesses/entities (e.g., a school getting additional enrollments), or with changes in business practices. Additionally, different commercial businesses generate and divert different types of wastestreams and targeted organics. This is extremely costly, and does not provide the detailed data needed to focus on individual generators, and impractical for a jurisdiction.	A change to the regulatory text is not necessary. It is not clear why the commenter believes a generation base study is necessary as SB 1383 does not set unique jurisdiction diversion targets. The regulations give a jurisdiction the flexibility to perform waste characterization studies or route reviews to meet the container contamination minimization requirements pursuant to Section 18984.5(c). This informs the jurisdiction of the amount of contamination on certain routes to allow for more targeted outreach. Preventing container contamination is crucial to achieve the necessary organic waste diversion targets in SB 1383.
3142	Tseng, E.	Section 18996.2. Department Enforcement Action Over Jurisdictions The development, permitting, construction, and startup of an organics processing facility can take up to 5 to 7 years, and given the delay in available recycling equipment (backlog orders), the 12 month extension is not practical if a jurisdiction is in the process of developing a facility to create the required capacity. CalRecycle also needs to address a facility that has a high diversion organics facility that loses its “status”,.. the capacity is then gone, so lack of capacity. Goes to the issue of “recovery efficiency” being determined on a destination (market) basis, and that of the minimum “threshold” recovery efficiency.	A change to the regulatory text is not necessary. Jurisdictions have been aware of the new 1383 regulations and in theory should begin the process of securing new infrastructure. In January 2016, jurisdictions were to have an organic waste reduction program in place to divert organic waste generated by businesses, including multifamily residential dwellings, and to conduct outreach and education on diverting organic waste. If a jurisdiction does not have infrastructure to handle their organic waste, they are not complying with the requirements of AB 1826, Mandatory Commercial Organics Recycling. SB 1383 does have allowance for jurisdictions that still have not secured infrastructure including a Notice of Violation process (roughly 6 months) and a Corrective Action Plan (additional 24 months with an option for a 12-month extension). This allows over 6 years to secure the needed infrastructure. If a facility fails to meet the requirements of a "high diversion facility", a jurisdiction will need to comply with the requirements by using a 3 or 2 bin collection service as outline in Section 18984.1 and Section 18984.2 Historically, a 3 or 2 bin system has been found to be more effective at increasing recycling.
3143	Tseng, E.	Table 1 is to be used for Jurisdiction Compliance with Collection Services 14 (Article 3), Hauler and Generator Requirements (Article 3 and Article 7), and 15 Edible Food Recovery Programs (Article 10). Sections 18984.1(c),18984,.2(a)(3) and 18984.3, Jurisdiction fails or continues to transport waste, to a facility that meets the high diversion requirements, as prescribed in these sections. Comment: Why would a jurisdiction be penalized if it either fails or continues to take materials that meet the high diversion requirements? (The jurisdiction would always be in violation, as they have to do one or the other, take it there, or not take it there)	The penalty tables in Section 18997.3, including Table 1, were deleted in favor of a minor/moderate/major penalty model modified by various factors. The language revision was intended to provide the Department the ability to set penalties on a case specific basis and weigh issues of equity.
3144	Tseng, E.	Section 17409.5.1. Organic Waste Recovery Efficiency.	A change to the regulatory text is not necessary. A facility’s efficiency is based on how much organic waste it recovers versus how much organic waste it sends out to disposal. A facility will

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		<p>Setting a minimum threshold to be qualified as a specific facility will place the facility's designation on market conditions and not on what the facility can actually recover is problematic. The current recovery effectiveness utilizes the disposal amount (which is a "destination-based" approach). Facilities do not control the end markets. Under this recovery scenario, a facility that meets the recovery requirements will lose its status if the market does not buy its recovered materials.</p> <p>Secondly, the requirement of recovery of "organic content" requires the overall recovery of all of the targeted organics defined by statute,... this means that a mixed waste facility that is specifically designed to recover food and not other "targeted" organics will never be able to be achieve the status of a high diversion organic waste processing facility even if it recovers 90% of the food waste the facility is designed to recover (as it is not designed to recover non-compostable paper, wood, etc.). These requirements are limiting the kind of facilities that can be built to incrementally remove organics from the wastestream.</p> <p>If you examine the recovery rates of some of the model EU facilities, you will find that the majority of the "organics" are diverted from landfill by mixed waste processing facilities with conversion technologies (call MBT or mechanical biological treatment facilities with recycling, digestion, composting, and thermal processing). See the following example: <a href="http://www.urbaserenvironnement.fr/en/references-en/treatment">http://www.urbaserenvironnement.fr/en/references-en/treatment</a></p>	<p>need to find additional markets for materials recovered from source-separated and mixed organic waste streams or perform additional recovery activities as described in Section 18983.1(b). It can also 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 or cease accepting mixed waste and only receive waste from source-separated collection streams.</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, regulatory limitations for processing organic waste must be implemented.</p>
3145	Tseng, E.	<p>Section 17409.5.7.2. Gray Container Waste Evaluations - Measuring Remnant Organic Material.</p> <p><b>Please check statement,.. note that if total weight of sample is more than 200 pounds, you cannot divide by 200 pounds. (Most likely typo left in)</b></p> <p>Also recommend that CalRecycle clarify the definition of "remnant" to include all SB 1383 targeted organics if that is what is meant, or only the remnant of what was targeted for "processing".</p>	<p>CalRecycle has revised the section accordingly.</p> <p>Regarding the term "remnant: A change to the regulatory text is not necessary. Remnant organic material is defined in Section 17402(a)(23.5) and is the organic waste collected in the gray container, as part of a three-container organic waste collection system.</p>
3146	Tseng, E.	<p>Section 17409.5.7.2. Gray Container Waste Evaluations - Measuring Remnant Organic Material.</p> <p>This requirement is in many of the sections. What is meant by "when requested"? Are these requests by a jurisdiction, an operator, by who specifically can make these requests? By what standards are the EA supposed to utilize to determine "required accuracy"?</p> <p>Most EAs do not have adequate experience in waste characterization sampling statistical requirements and or characterization protocols, or data mining/analysis to do this regulatory requirement. Only the City of Los Angeles LEA personnel and the Sunshine Canyon Landfill LEA personnel have conducted extensive waste composition studies as part of their LEA work. This is not a task that the LEA normally do.</p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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 requirement that measurements be conducted in the presence of the LEA when requested remained and is necessary to ensure that facilities are conducting measurements accurately. It provides the LEA an opportunity to oversee the methodology and identity where problems may occur or if it is not performed correctly. If there is a large discrepancy between the gray container</p>

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			<p>waste evaluation performed by the operators and the jurisdictions container contamination minimization results reported, the jurisdictions will be notified.</p> <p>CalRecycle staff will develop tools to assist in the implementation of the regulations.</p>
3147	Tseng, E.	<p>Section 17409.5.8. Incompatible Materials Limit in Recovered Organic Waste            If the “facilities that will process that waste” mean that it will process “incompatible materials” that was collected or processed as part of the source separated organic waste stream and from the mixed waste organic collection stream? By processed, does CalRecycle mean that it will be accepted on a process line? A transfer station is allowed only to store or to pass it through to disposal without actually running it on a processing/recovery line. Clarification, does processing the incompatible material mean actually running it on a process line?            Is incompatible mean not consistent with what is targeted for processing, or just means contamination that are materials that are not organic? Are incompatible materials determined on a dry weight or wet weight (as received) basis?</p>	<p>A change to the regulatory text is not necessary. 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> <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, regulatory limitations for processing organic waste must be implemented.</p> <p>In addition, CalRecycle staff will develop tools to assist in the implementation of the regulations.</p>
3148	Tseng, E.	<p>Section 17409.5.12 Transfer/Processing EA Verification Requirements            Verification of measurements and review of the analysis of the data will be extremely resource intensive and time consuming for EA staff. The EA staff has the basics of facility design and operations from inspection and enforcement perspective, but most EA staff do not have actual facility / unit processing equipment line design or actual operational experience. Much of the measurement standards and data needed to be collected do not have established protocols to insure consistency of evaluation standards between the different types of processing line / facilities. Facility recovery rates will vary by type of processing line and the amount and type of input materials.</p>	<p>A change to the regulatory text is not necessary. EA staff are already responsible for checking records (load checking, tonnage, etc.) at solid waste facilities. This requirement is an additional record check to ensure that the operator is conducting measurement protocols accurately to determine if a change to the protocol is necessary. The EA would be not be responsible for checking the actual processing equipment or evaluating between different types of processing lines. Instead the EA is required to verify if the sampling methodology performed by the operator complies with the measurement protocol described in Sections 17409.5.2 – 17409.5.8. This includes reviewing the records and observing measurements being conducted on the material after it has been processed but before it is sent for recovery/disposal.</p>
3149	Tseng, E.	<p>Section 17867. General Operating Standards.            There are going to be “organic” feedstock materials that are sent to disposal that should not be in the compost. Certain organics, such as plants and really “woody” (e.g bamboo, palm fronds, poisonous plants, etc.) and other materials (dead animals) that do not compost well or should not be in compost,... these materials should not count against the recovery rate of a composting facility. <b>These materials should be removed to improve the quality of the compost product.</b> This is only partially addressed by section (F), which addresses textiles, carpet hazardous wood waste, non-compostable paper, human or pet waste, and material subject to a quarantine on movement issued by a county agricultural commissioner.</p>	<p>Although the materials described (bamboo, palm, etc.) are not ideal for composting, there may be other methods for that material to be recovered (described in Section 18983.1), unlike the materials described in Subsection (F), which have specific handling/disposal requirements (treated wood waste, quarantine, etc.).</p>
3150	Tseng, E.	<p>Section 18083(c). LEA Duties and Responsibilities for Inspections            What is meant by “statistically significant”? That is going to be hard to determine until all of the land application sites and deposited tonnage are determined. This may be problematic as organics (compost, mulch, etc.) are land applied in a huge</p>	<p>CalRecycle has deleted Section 18083(c) in response to comments.</p>

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		variety of ways, e.g., highway median mulch/compost, fire suppression, golf courses, farms, fruit/nut groves, parks, etc.	
3151	Tseng, E.	<p>Section 18984.5. Container Contamination Minimization SEE LETTER</p> <p>Remove the highlighted part of this requirement. The minimum weight requirement is probably copied by CalRecycle from the City of Los Angeles franchise contract's waste composition requirement for the haulers. This requirement was determined to excessive and is now not a requirement. The following section (D) lists the current newer standard, and is based on accuracy/precision levels vs. number of samples based on the statistical work conducted by CalRecycle in the development of the CalRecycle Uniform Waste Characterization Method. Recommend that waste characterization requirements be consistent with the sampling approach that has been in place by CalRecycle since the 1990's.</p>	<p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology. Comment noted. CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. The minimum performance standards that apply to material collected in the green containers in a performance-based source separated organic waste collection service, ensure that collected organic waste is recovered to the minimum degree necessary for the state to achieve the organic waste reduction targets established in statute. This section is necessary to ensure that addition to the requirements that organic waste that is collected in green containers is recovered, a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. 25 percent was established as a threshold to mirror the intent and the 75% organic waste diversion threshold established in statute.</p> <p>Absent this section, a jurisdiction would only be implementing a performance-based source separated organic waste collection system and generating 100 tons of organic waste would only need to send the material collected in the green container to a facility that can recover 75 percent of the material in the green container. If the jurisdiction only collects 50 tons of organic waste in the green container and sends it to a facility that recovers 75 percent of that material, up to 50 tons could be sent directly to disposal in the gray container. Removing this section would compromise the state's ability to achieve the organic waste reduction targets.</p> <p>Further, jurisdictions implementing a performance-based source separated organic waste collection system, are not subject to the strict education and outreach requirements prescribed in Article 4. This exemption is premised on the jurisdiction's existing education programs being sufficient to meet or exceed the state's minimum standards. The organic waste threshold measured in the gray container is a key indicator of the efficacy of the education and outreach.</p>
3152	Tseng, E.	<p>Section 18984.5. Container Contamination Minimization (page 24, line 34) and Section 17409.5.7. Gray Container Waste Evaluations(page, 119 Line 25)</p> <p>A jurisdiction (or the hauler servicing the jurisdiction) may use a huge number of different types of facilities and transfer station/MRFs and it is an unreasonable burden for the facilities (which may gray waste bin materials) from many, many jurisdictions, A gray bin waste characterization sampling program is much better to be done by the hauler of the wasteshed, and not by the facilities servicing the wastestream. It is very difficult and operationally intrusive to sample a specific jurisdiction's waste when some haulers will service multiple jurisdictions on a single truck route run.</p>	<p>CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route reviews instead of using the waste sampling methodology. Comment noted. CalRecycle disagrees that the third requirement that jurisdictions demonstrate that less than 25 percent of waste in the gray container is not an appropriate threshold. This threshold is necessary to ensure that if jurisdictions elect to implement a performance-based source separated organic waste collection service, the state can comply with the organic waste reduction targets established in statute. The minimum performance standards that apply to material collected in the green containers in a performance-based source separated organic waste collection service, ensure that collected</p>

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		<p>The requirement that a gray container have less than 25% “organics is not a reasonable standard for gray bin, as that is the bin that is to be sent to the landfill. If there is no infrastructure to process the targeted organics or there are no markets for non-recyclable organics, there will be more than 25% organics in the disposal stream. Waste composition studies (CalRecycle, City of Los Angeles, City of San Diego, etc.) show that the current waste composition of materials disposed of at landfills may average as much as 70% by weight of the total materials being disposed. Without processing infrastructure and viable markets, this standard will not be met, and only will discourage the development of facilities that can incrementally divert materials from landfills.</p>	<p>organic waste is recovered to the minimum degree necessary for the state to achieve the organic waste reduction targets established in statute. This section is necessary to ensure that addition to the requirements that organic waste that is collected in green containers is recovered, a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. 25 percent was established as a threshold to mirror the intent and the 75% organic waste diversion threshold established in statute.</p> <p>Absent this section, a jurisdiction would only be implementing a performance-based source separated organic waste collection system and generating 100 tons of organic waste would only need to send the material collected in the green container to a facility that can recover 75 percent of the material in the green container. If the jurisdiction only collects 50 tons of organic waste in the green container and sends it to a facility that recovers 75 percent of that material, up to 50 tons could be sent directly to disposal in the gray container. Removing this section would compromise the state’s ability to achieve the organic waste reduction targets.</p> <p>Further, jurisdictions implementing a performance-based source separated organic waste collection system, are not subject to the strict education and outreach requirements prescribed in Article 4. This exemption is premised on the jurisdiction’s existing education programs being sufficient to meet or exceed the state’s minimum standards. The organic waste threshold measured in the gray container is a key indicator of the efficacy of the education and outreach.</p>
3153	Tseng, E.	<p>Section 17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream</p> <p>This requirement does not reflect real life of how facilities are planning to recover “organics” that will be in the form of an output feedstock for anaerobic digestion (AD) . The “organic” fraction for a “wet AD” is a slurry in the form of a sludge that can be up to 75% to 80% water content and the organic material has the consistency of oatmeal. The only way to determine “organic content” would be via a laboratory analysis. (Check with Sanitation Districts of Los Angeles County Puente Hills MRF, and also with Waste Management’s Sun Valley MRF/Transfer Station, etc.)</p> <p><b>Recommend not requiring this analysis if the recovered organics output is a feedstock that is bound for wet digestion.</b></p> <p>CalRecycle should recognize that a “facility” has many other types of processing lines in addition to a specific organics recovery line. Most significant is that even for a processing line for source separated materials, if the contamination rate is over the 25%, this standard can never be met even if 100% of the organics is recovered. Given that existing programs typically experience up to 30%+ contamination in a source separated organics collection program, a 25% threshold is a ridiculous standard for organics in the disposal fraction of a source separated program.</p>	<p>CalRecycle has revised Section 17409.5.9 the alternative to measurement protocols in response to comments. The section was revised to include substitutes/waivers of certain requirements of the measurement protocols described in sections 17409.5.2 through 17409.5.8.</p> <p>The EA with Department concurrence, can approve a substitute to certain sampling and measuring protocols with a quality standard that is specific to an organic waste type that the accepting entity has imposed on the operator. If the receiving facility can demonstrate that the sampling protocol they use is designed to accurately reveal the percentage of incompatible material by weight present in their samples. This is necessary to allow the operator the flexibility to use the receiving entity’s quality standard in-lieu of the sampling requirement if the quality standard meet or exceed the levels established in the proposed regulations.</p>
3154	Tseng, E.	<p>Section 18984.1 (three-container organic waste collection services)</p> <p>If CalRecycle insists on having threshold standards, then for consistency purposes, recommend adding a requirement in section 18984.1 (three-container organic waste collection services) whereby audits of the black container must demonstrate no more than 25% organics to be compliant under a scenario of organic waste</p>	<p>The purpose of 17409.5.7 (Gray Container Waste Evaluations) is not to penalize jurisdictions for placing organic waste in the gray container, but only to measure how much remnant organic material is found in the gray containers. Since organic waste is prohibited from being placed in the gray container in a three-container collection system, allowing a limit of 25% of organic waste in the gray container would by default, contradict the requirements of this system. Under a</p>

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		<p>collection in the green container. In this section, a jurisdiction can use a three-container collection system and instruct generators to place food waste in the green container, co-mingling with yard waste. In order to make sure substantial amounts of food waste are actually manually diverted from the black bin, where food waste is predominantly disposed today, and into the green container, Calrecycle will be monitoring the organics content of the black container per section 17409.5.7. The current text of section 17409.5.7 only states the black container will be characterized without a numeric requirement for residual organic waste. Therefore, if substantial amounts of food waste remain in the black bin there is no consequence or target to guide a jurisdiction to require numeric criteria to their haulers, nor is there a numeric criteria to benchmark efficacy.</p> <p>Adding a requirement in section 17409.5.7 that states no more than 25% organic waste can be present in the black bin. This way, the requirement mirrors the criteria in Article 17 (performance based source-separated organic waste collection service) and is consistent with Article 17 standards.</p>	<p>three-container waste collection system, gray containers are for the collection of non-organic waste only, excluding recyclables.</p> <p>The purpose of the gray container waste evaluations 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>
3155	Tseng, E.	<p>Section 18991.5. Food Recovery Services and Organizations</p> <p>This is an overly burdensome requirement for a food recovery service / organization. This requirement increases the work that has to be done to implement such a program, thus increasing workers' risk of injury and creating additional time and motion associated with the work flow. The data administration requirements will increase the costs of this program to the generators and also to the food recovery service / organization.</p>	<p>CalRecycle worked with many food recovery organizations and services operating in California to ensure that SB 1383's recordkeeping requirements for food recovery organizations and services are consistent with information that they already track. Since most well established and reputable food recovery organizations and services already track the information that is required to be tracked in SB 1383's regulations, the recordkeeping requirements should not be overly burdensome. It is also unclear how maintaining records could increase a worker's risk of injury as the commenter noted in their comment.</p> <p>CalRecycle would also like to clarify that only food recovery organizations and services that contract with or have written agreements with commercial edible food generators pursuant to SB 1383 are required to comply with the recordkeeping requirements. 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 pursuant to SB 1383. It is at the discretion of individual food recovery organizations and services to determine if establishing such contracts or written agreements is appropriate for their operation.</p>
3156	Tseng, E.	<p>Section 17414.2. Recordkeeping and Reporting Requirements - Organic Waste Recovery</p> <p>This is an unrealistic requirement for facilities. Many facilities have self service for residents and for gardeners that they can pick up as much free compost, There is no way that a facility knows where the material ends up. Some only pick up a few cubic feet, and some may pick up a substantial volume. At most facilities, there are no scales and these are unattended self-help setups.</p> <p>Contractors may pick up compost from a facility, and the contractor does the land application, so the facility does not know where it ends up. Also, compost / mulch or digestate may be used for highway medians, nurseries, individual home residence locations, parks, forest areas for fire breaks, etc. There is no way to get "weight" information when the material is spread out over such a variety of locations.</p>	<p>CalRecycle has revised Section 17414.2(b) in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of compostable material sent off site to any destination other than to permitted solid waste facility or operations, the percentage of incompatible material, and the total weight of the compostable material sent off site that day. The purpose is to specify that the material sent off to a destination that is not a permitted solid waste facility has less than 20% incompatible material on and after 2022 and 10% on and after 2024. This is necessary to ensure that the material was processed to a level that a receiving facility can recovery the material.</p>
3157	Tseng, E.	Section 18083(c). LEA Duties and Responsibilities for Inspections	CalRecycle has deleted Section 18083(c) in response to comments

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		<p>This is an unrealistic requirement for the LEA. Many facilities have self service for residents and for gardeners that they can pick up as much free compost, There is no way that a facility knows where the material ends up. Some only pick up a few cubic feet, and some may pick up a substantial volume. At most facilities, there are no scales and these are unattended self-help setups so the LEA will not be able to get the information from the facilities on where everything goes..</p> <p>Contractors may pick up compost from a facility, and the contractor does the land application, so the facility does not know where it ends up. Also, compost / mulch or digestate may be used for highway medians, nurseries, individual home residence locations, parks, forest areas for fire breaks, etc. There is no way to get “weight” information when the material is spread out over such a variety of locations. It is ridiculously impractical for the LEA to go to every site where there has been land application.</p>	
3158	Tseng, E.	<p>Organics diversion requirements should not be required of organics collected from specific facilities in airports dealing with international wastes (regulated by Dept. of Food and Ag) and or dealing with quarantined / contraband seized materials (regulated by Customs (ICE). There are over-riding Federal requirements related to the treatment (e.g., incineration, autoclaving, etc.) of solid waste from international flights, etc.</p>	<p>Comment noted, CalRecycle added language to the regulations stating that, “Nothing in this chapter requires generators, jurisdictions or other entities subject to these regulations to manage and recover organic waste that federal law explicitly requires to be managed in a manner that constitutes landfill disposal as defined in this chapter.”</p>
3159	Tseng, E.	<p>The draft regulations are very biased in favor of source separation and composting, ... and does not provide a level playing field to other forms of organics processing and organics diversion approaches (and in fact discourages other approaches). The regulatory approach will limit the availability of diversion programs available to process organics.</p> <p>The better approach to organics disposal reduction is just to set the regulatory mandate at 75% disposal reduction by 2025, and start to impose a very high regulatory per ton fee (e.g., \$100 per ton) on disposal at landfills that do not meet this requirement. The money would be used to fund the research and development of technology and projects to recover and process organics and waste materials.</p> <p>CalRecycle’s draft regulations are attempting to micro-manage businesses and not really understanding the impact on generators and creating a tremendous burden on generators, recyclers, and jurisdictions,... instead of creating an infrastructure for the industry and local jurisdictions to solve the issue. These regulations are creating all kinds of unintended consequences, e.g., setting unrealistic “recovery efficiencies” as minimum thresholds for “all targeted organics” for mixed waste processing facilities, and thus discouraging the development of facilities that could potentially decrease the amount of organics being disposed. CalRecycle should learn from successful international best management practices where European Union (EU)countries and many countries in Asia (e.g., Japan, Taiwan, etc.) have already achieved remarkable disposal reduction rates and basically prohibited disposal of non-processed waste.</p>	<p>The statutory language of SB 1383 specifically prohibits this approach by not allowing disposal limits for individual landfills and the legislation was not intended to apply the diversion target to individual jurisdictions. It was intended as a statewide target.</p>

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		<p>CalRecycle also needs to look at the overall wastestream from a “systems engineering” viewpoint (holistic approach), as is being done in the EU and Asia, and understand that in an integrated waste management approach, you have to build all parts of that infrastructure. The disappearance of the Asian recycling markets (China Sword, Vietnam, Indonesia, Philippines, Malaysia, India, etc.) show just how CalRecycle’s primary focus on recycling collection has not utilized a systems approach which would have backup processing options for the wastestream so that landfill disposal (and GHG generation) can be minimized.</p> <p>The overall singular program focus of these regulations is geared towards source separation and composting, and not designed for a broad based systems engineering approach that also supports mixed waste processing and other internationally proven technological approaches, and in the long run, the infrastructure may face the same issues resulting from the singular “recycling collection focus” that California has been doing.</p> <p>The EU and Asia has long recognized the need to minimize landfill disposal for the purpose of reducing methane emissions from landfills and has been implementing a systems engineering approach to waste management for the better part of 25 – 30 years already.</p>	
6037	Wade, S., Coalition for Renewable Natural Gas	<p>We Strongly Support the Amended Language Allowing All Renewable Gas Use to Count Toward Recovered Organic Waste Product Procurement Targets.</p> <p>We were pleased to see that the changes made in the June 17th, 2019 draft of the Proposed Rule expand the definition of “renewable gas” and clarify that a variety of end uses of renewable gas can be used to demonstrate compliance with the jurisdictional procurement requirements for recovered organic waste products. We thank staff for this change and respectfully suggest a few additional minor adjustments below to help facilitate maximum incentive for RNG project development from anaerobic digestion (AD) of organic waste.</p>	Thank you for your comment.
6038	Wade, S., Coalition for Renewable Natural Gas	<p>Framework for Pipeline-delivered Renewable Gas Should Be Clarified and Treated Equivalently to Renewable Gas Generated and Used On-site.</p> <p>We recommend that in Section 18993.1(g)(1)(D) the factor used to convert the amount of renewable gas a jurisdiction procures from the pipeline (likely through the local gas utility, core transport agent, or non-core supplier) be reworded slightly as follows: “27 therms for <b>procurement of pipeline-injected</b> <del>injection of</del> renewable gas” to clarify that it is the procurement (and use) of the gas, rather than the injection, that is counted against the jurisdiction’s organic waste product procurement target.</p> <p>As currently worded, the language could be read as if it was the act of injection, rather than the procurement and use, that produces a credit toward the targets. As this would not generate additional demand for RNG, we believe this is not staff’s intent. If the suggested clarification is made, it should help ensure jurisdictions are prepared to procure and use the renewable gas that AD of their organic wastes produce.</p>	CalRecycle deleted pipeline injection as an eligible procurement option in the most recent regulatory draft in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, the previous regulatory language made it possible for a jurisdiction(s) to 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.



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6039	Wade, S., Coalition for Renewable Natural Gas	<p>Secondly, <b>we feel that the distinction between procurement of pipeline-injected renewable gas and “heating derived from renewable gas” is not helpful.</b> The heat content of the renewable gas itself (in therms) is easily measured.<sup>2</sup> In contrast, the amount of final “heating” provided is a more complex value to assess.</p> <p><b>If both categories are maintained, both values should be set at 27 therms per ton of organic waste.</b> If this change is not made—and the current 22 therm value for “heating” is retained—staff should clarify in the Final Statement of Reasons (FSOR) the proper place to measure and apply this value. For example, we believe this value is derived by assuming the renewable gas is used in a boiler operating at 80% efficiency. If this is indeed the derivation of the 22 therm value, staff should state this clearly in the FSOR, explain where this “heating” (in therms) measurement should be taken in common systems, and what a jurisdiction should do if their boiler or space-heating equipment is known to have a better or worse efficiency.</p>	<p>CalRecycle deleted pipeline injection as an eligible procurement option in the most recent regulatory draft in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, the previous regulatory language made it possible for a jurisdiction(s) to 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. Regarding measurement of the “heating” value, the proposed regulatory text provides conversion factors for jurisdictions to convert the recovered organic waste product procurement target, measured in tons, to amounts of finished product. This approach does not require jurisdictions to submit individual measurements for the purposes of meeting their procurement target. If individual measurements were allowed to be submitted, the broad range of potential conversion factors 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>
6040	Wade, S., Coalition for Renewable Natural Gas	<p>Further, staff should clarify in the FSOR that the final rule is intended to maintain parity between pipeline-injected renewable gas procured from off-site sources and renewable gas produced on site, so as not to disincentivize additional pipeline-injection of renewable gas when efficiency improvements can be made to reduce onsite renewable gas demand at an AD project.</p>	<p>CalRecycle deleted pipeline injection as an eligible procurement option in the most recent regulatory draft in order to eliminate the potential for double-counting the same gas for different procurement targets. For example, the previous regulatory language made it possible for a jurisdiction(s) to 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>
6041	Wade, S., Coalition for Renewable Natural Gas	<p>The Rule Should Clarify Treatment of Compost Derived from Digestate. Digestate from AD facilities can be directly used as biofertilizer or soil conditioner. However, in some cases—since the solid fraction of digestate still contains some biodegradable matter—microbial activity and odor can still occur. To reduce environmental impact and get to a more marketable and stable biofertilizer product, further processing, such as composting and drying, can be conducted.</p> <p>Generally, the application of compost from digestate has the same effect on soil as any other high-quality compost—improving soil quality with valuable nutrients and organic matter content and increasing water retention capacity and buffer capacity of the soil. We assume, from the current rule text, that compost derived from digestate can qualify for the jurisdictional procurement targets, providing that the digestate-derived compost meets all requirements for compost produced from at an in-vessel digestion facility.</p>	<p>Compost produced at a facility identified in 18993.1(f)(1) constitutes a recovered organic waste product. The facilities identified in that section are:</p> <p>“(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this division; or</p> <p>(B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.”</p> <p>Those identified facilities could use digestate as a feedstock to produce compost. However as identified in the note in the regulatory text in Section 18993.1, digestate itself is not compost and is not a recovered organic waste product. Digestate, like food waste, and green material is an organic material and it is appropriately defined as organic waste in the regulations. The note referenced above was included to clarify that items defined as organic waste in the regulations, and “recovered organic waste products” such as compost and mulch should not be confused as equivalents, and that incentivizing procurement of organic waste recycling byproducts is not the intent of the regulations.</p>
6042	Wade, S., Coalition for Renewable Natural Gas	<p>Recently, some stakeholders have raised questions about the complementary nature of renewable gas from AD and composting. Therefore, <b>we request that CalRecycle staff clarify in the FSOR that jurisdictions are encouraged to put organic</b></p>	<p>Compost produced at a facility identified in 18993.1(f)(1) constitutes a recovered organic waste product. The facilities identified in that section are:</p>

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		<p><b>waste into systems designed to jointly optimize both renewable gas and compost production.</b> Specifically, clarification that digestate-derived compost will be treated like all other compost for the purposes of credit toward procurement targets, and that these technologies are not in competition with each other, would also be helpful.</p>	<p>“(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this division; or  (B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.”</p> <p>Those identified facilities could use digestate as a feedstock to produce compost. However as identified in the note in the regulatory text in Section 18993.1, digestate itself is not compost and is not a recovered organic waste product. Digestate, like food waste, and green material is an organic material and it is appropriately defined as organic waste in the regulations. The note referenced above was included to clarify that items defined as organic waste in the regulations, and “recovered organic waste products” such as compost and mulch should not be confused as equivalents, and that incentivizing procurement of organic waste recycling byproducts is not the intent of the regulations.</p>
3052	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 1, Section 18982 (a)(5) "Blue container" means a container where the lid of the container is entirely blue in color. Hardware such as hinges and wheels on a blue container may be a different color.  Please clarify what color the body of the container is allowed to be. The city suggests that the text be amended to read:  <b>The body of the container and</b> hardware such as hinges and wheels on a blue container may be a different color.</p>	<p>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.</p>
3053	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 1, Section 18982 (a) (5.5) "Brown container" means a container where the lid of the container is entirely brown in color. Hardware such as hinges and wheels on a brown container may be a different color.  Please clarify what color the body of the container is allowed to be. The city suggests that the text be amended to read:  <b>The body of the container and</b> hardware such as hinges and wheels on a brown container may be a different color.</p>	<p>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. 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</p>

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			<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>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 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>
3054	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 1, Section 18982 (a) (28) "Gray container" means a container where the lid of the container is entirely a 11 shade of gray or black in color. Hardware such as hinges and wheels on a green container may be a different color.</p> <p>There may be a typo here. It seems that "green" should be "gray". Please clarify what color the body of the container is allowed to be. The city suggests that the text be amended to read:</p> <p><b>The body of the container and</b> hardware such as hinges and wheels on a <b>gray</b> container may be a different color.</p>	<p>Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say 'gray' instead of 'green.'</p>
3055	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 1, Section 18982 (a) (29) "Green container" means a container where the lid of the container is entirely green in color. Hardware such as hinges and wheels on a green container may be a different color.</p> <p>Please clarify what color is the permitted color for the body of the container. The City suggests that the text be amended to read:</p>	<p>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. 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>

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		<p><b>The body of the container and</b> hardware such as hinges and wheels on a green container may be a different color.</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>

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			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.
3056	Webb, M., City of Davis	<p>5. Title 14, Chapter 12, Article 1, Section 18982 (a) (42) "Non-local entity" and Section 18982 (a) (71) Special district.</p> <p>Please clarify if this also includes County Fairgrounds. County Fairgrounds do not currently have to follow jurisdictional regulations for waste diversion, yet their waste is credited to the jurisdictions where they are physically located. This has been a significant challenge in Yolo County.</p>	<p>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.</p>
3057	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 2, Section 18983.1 (a) (2)(B) If as a part of the approval process pursuant to Section 20690 or 20700 of Title 27 Division 2, the operator demonstrates that approved material recovery fines that will be used for cover material do not include organic waste, the use of material recovery fines shall not constitute disposal of organic waste.</p> <p><b>This text needs further clarification. If the approved material recovery fines do not include organic waste, the definition of "not include" must be clear.</b> Does the material need to be 100% free of organics?</p> <p>Materials that are used as alternative daily cover, particularly items such as sludge and construction and demolition (C&amp;D) material recovery fines, are used as such because there are few reuse or recycling options for them. While staff understands that the goals of these regulations are to remove organics from landfills, it is also important to note that there is often no other option for certain materials (C&amp;D fines and sludge) other than landfilling or use as alternative daily cover.</p> <p>Additionally, since Section 18987 .2 was removed, can digested sludge continue to be used as alternative daily cover?</p> <p>The City of Davis requests that this section be reworded to clarify the percentage of organics that are allowed in alternative daily cover, to allow digested sludge to be used as alternative daily cover, and to allow C&amp;D fines to be used as alternative daily cover as long as they do not contain more than <b>(a designated percentage of)</b> organic material.</p>	<p>Nothing in the regulatory text prohibits the use of digestate as alternative daily cover. 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>
3058	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 3, Section 18984.1(a)(I)(A) . . . The written notification shall have been provided within the last 12 months.</p> <p>Please clarify this line in the regulations. It is not immediately clear if this means that jurisdictions will need to get a written notification every 12 months from the organics facility they utilize, or that they need to get written notification within 12 months of these regulations going into effect. This same text is also found in Section 18984.2 (a)(1)(C).</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>

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			<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>
3059	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 3, Section 18984.1 (a)(6)(B) Lids for recycling bins</p> <p>The City of Davis appreciates the clarifications that have been given here to accommodate dual-stream recycling systems. However, as mentioned in past comment letters, 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>This section poses a significant challenge for dual-stream single split-cart recycling systems.</p> <p>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 recycling process has kept City 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. 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.</p> <p>Davis uses a split-recycling cart for curbside recycling service with great success. 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. SEE LETTER FOR PICTURES</p> <p>Temporary bins used for special projects and large debris boxes.</p> <p>Do the regulations for colors and labeling also apply to temporary dumpsters that are used for special projects ( construction and demolition projects, land-clearing projects, etc.)? Construction and demolition debris are not specifically called out in the regulations, but green waste is called out. In some projects, a contractor will have a special bin brought in for a short time to fill with green waste from the project. Will these bins need to have green lids and be labeled according to Section 18984.8?</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. 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>

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		<p>Most 10-40 yard debris boxes do not have lids. What would be required for these large debris boxes? While most of the time these bins and debris boxes are for temporary uses associated with specific projects, there are a few customers that have these large debris boxes 365 days a year to accommodate large amounts of green waste generated on site.</p> <p>If these regulations require that debris boxes without lids to have color-coded bodies and specific labels, this will cause a significant challenge for haulers. Currently, the City's hauler will use the same debris boxes for everything. One week a 20 yard box might be at a jobsite and used for green waste only, whereas the following week it may be at a different jobsite for construction and demolition debris. If CalRecycle required that large debris boxes be color coded and labeled for specific materials, it would force haulers to use specific boxes for specific materials only, requiring them to have more of these large boxes available at any given time, and necessitating more space in their corporation yards to store excess bins.</p> <p>The City requests that CalRecycle include language in the regulations to exempt bins that are 1 yard and larger in size, and are used for temporary projects, from the color and labeling requirements set forth in Sections 18984.7 and 18984.8.</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 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>
3060	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 3, Section 18984.1 (d) ...The written notification shall have been provided within the last 12 months.</p> <p><b>Please clarify this line in the regulation. It is not immediately clear if this means that jurisdictions will need to get a written notification from their organics facility that plastic bags are accepted in the green containers every 12 months, or that they need to get written notification within 12 months of these regulations going into effect. This same text is also found in Section 18984.2 (f).</b></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.</p>

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			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.
3061	Webb, M., City of Davis	Title 14, Chapter 12, Article 3, Section 18984.5(a)(4)(A) A designee may only dispose of a container with visible prohibited container contaminants with the consent of the jurisdiction. Please clarify this line in the regulation. How frequently does this consent need to be given? For example, is this in each circumstance, or is a blanket approval given once a year? In addition, is one letter of agreement to the terms in which the containers may be disposed of good enough to cover all instances and types of disposal?	CalRecycle has removed section 18984.5(b)(4)(A). The change is necessary to clarify that a hauler does not have to get approval on a case-by-case basis but rather can obtain prior consent from the jurisdiction for disposing of container with prohibited container contaminants. The frequency of the consent, the details of the consent, and how the consent is provided is at the jurisdiction's discretion, e.g., a jurisdiction might choose to provide the consent one time in the franchise agreement or contract, or they may choose to provide consent to haulers for each circumstance.
3062	Webb, M., City of Davis	Title 14, Chapter 12, Article 3, Section 18984. 5 (e)(1) Pursuant to Section 17409.5.1, the solid waste facilities processing the jurisdictions green container collection stream recover 75 percent of the organic content received at the facility. The requirement for 75% recovery of the organics received at the facility seems to be at odds with the requirement in Title 14, Chapter 12, Article 1, Section 18982 (a) (14.5)(B) for organics facilities to have less than 10% of the material that is landfilled to be organic. How can a facility be required to recover only 75% of the organics it receives, but landfill less than 10%? What happened to the remaining 15%?	The 75 percent recovery efficiency level is measure of the amount of organic waste a transfer/processor recovers relative to the amount of organic waste it receives for a source separated collection service or a mixed waste collection service. The 10 percent incompatible material limit (which phases in at 20 percent until 2024) is a separate standard. The incompatible materials limit is a cleanliness standard that applies to the organic waste the transfer/processor sends to recovery. The incompatible materials limit is essential to the integrity of the recovery efficiency measurement, but the numbers are not cumulative. The incompatible materials limit ensures that the material being weighed as organic waste sent to recovery is actually organic waste. If the organic waste a transfer/processor sends to organic waste recycling facilities (e.g. compost) exceeds the incompatible materials limit, the likelihood of the material being recovered is greatly reduced, and the recovery efficiency numbers would be distorted. See statement of purpose and necessity for Section 17409.5.1,17409.5.2 through 17409.5.5 and 17409.5.8. regarding recovery efficiency and incompatible materials limits.
3063	Webb, M., City of Davis	Title 14, Chapter 12, Article 3, Section 18984.5(e) <b>It appears this section would exempt jurisdictions that qualify as having Performance-Based Source Separated Collection Service. If so, can that be clearly stated by incorporating a reference to Article 17, rather than listing the requirements to qualify as Performance-Based Source Separated Collection Service?</b> Not all the requirements of a Performance-Based Source Separated Collection Service are listed here, so it's not clear what the goal of this section is.	Section 18984.5(e) does not exempt jurisdictions that qualify as having Performance-Based Source Separated Collection Service. A jurisdiction is not required to implement Article 17. Article 17 states that a jurisdiction implementing a Performance-Based Source Separated Organic Waste Collection Service must monitor contamination through waste evaluations under Section 18984.5(c)
3064	Webb, M., City of Davis	Title 14, Chapter 12, Article 3, Section 18984.8(b)(2) Providing containers with imprinted text or graphic images that indicate the primary materials accepted and the primary materials are prohibited in that container. This is not clear as written and there may be a typo in this sentence. The City recommends removing the "are" so that it reads thus: Providing containers with imprinted text or graphic images that indicate the primary materials accepted and the primary materials <del>are</del> prohibited in that container.	Thank you for the comment. CalRecycle has revised Section 18984.8(b)(2) remove an extra 'are.' 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. 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



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		<p>The City has found that imprinting labels directly onto container lids last on the lid 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> <p>While the City appreciates that CalRecycle has removed the requirement that the labels be maintained, the City does still have concerns about the labels ending up as litter. 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, 2036) in order for the labels to be imprinted directly onto the container and not contribute to litter.</p>	<p>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>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>
3065	Webb, M., City of Davis	Title 14, Chapter 12, Article 3, Section 18984.9(b)(1)	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

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		<p>The City is concerned that the regulations exempt restrooms. A great deal of organic waste, specifically paper towels, come from restrooms, and in some cases the City has found the restroom contributes to 40% of generated waste. In order for the City of Davis to meet CalRecycle organics diversion requirements, it is essential to ensure that paper towels are kept out of the landfill.</p> <p>In Section 18984.9 (e), CalRecycle has already specified that bins are not required to be in a location where the materials that would be in the bin are not generated. If a restroom does not have paper towels (and has an air dryer instead), it would follow that the restroom would not need an organics or recycling bin. However, most all restrooms still have paper towels available for consumers.</p> <p>Requiring that all paper towels in restrooms be collected for composting is a very simple way to boost the diversion of organics. In the City's experience, this can be easily done by placing a "Compost Paper Towels Here" sticker on the existing trash bins that are placed near the sinks/paper towel dispensers in bathrooms, and placing a tiny trash bin nearby. This way, consumers who are accustomed to using that particular restroom (i.e. employees in a business) do not need to change their normal behavior.</p> <p><b>The City of Davis requests that CalRecycle remove this exemption from the regulations.</b></p>	<p>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.</p>
3066	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 3, Section 18984. 9(b)(1)(A) A body or lid that conforms with the container colors provided through the organic waste collection service provided by their jurisdiction, or (B) Container labels that comply with the requirements of Section 18984.8.</p> <p>This can be interpreted in more than one way, and the City requests some clarification. For cities such as Davis that have a dual-stream collection, Section 18984.1(a)(6)(B) provides some flexibility in the color requirements: dual stream recycling bin lids can be dark blue and light blue to indicate organic recyclables and non-organic recyclables. As such, how would 18984.9 be interpreted? Would indoor recycling bins placed in businesses need to just be colored coded as "blue" (with either a blue body, lid and/or label) or would they need to be colored coded as "light blue" and "dark blue", to signify organic recyclables and non-organic recyclables?</p> <p><b>The City would prefer that the requirement only be for "blue" bins/lids/labels and not specifically light versus dark blue to allow some flexibility in purchasing for businesses.</b> Not all recycling bins and lids come in more than one shade of blue. In addition, due to different color processes (RGB vs. CMYK) at professional printers, the color "blue" can come out a variety of shades, causing problems when trying to custom print labels for bins.</p> <p><b>Similar clarification is needed for Section 18986.1(a-b) and Section 18986.2(a-b).</b></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.</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.</p>
3067	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 3, Section 18984.10(a) Property owners that are not single family units, and business owners shall provide or arrange for organic waste collection services consistent with this article and local requirements, for</p>	<p>Section 18984.10 is related to the collection service containers. Section 18984.7 was revised to clarify that the containers jurisdictions are required to provide are containers for collection services (e.g. the curbside containers, not the internal business containers).</p>

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		<p>employees, contractors, tenants, and customers, including supplying and allowing access to adequate number, size, and location of containers with sufficient labels and container color.</p> <p>Please provide some clarification in this text. Is "containers" referring to the containers that are located inside the business, or are these the containers used for collection service?</p>	
3068	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 3, Section 18985.1 (f) A jurisdiction is only required to provide the education and outreach material required by this section every other year if both of the following apply: (1) Pursuant to Section 17409.5.1, the solid waste facilities processing the jurisdiction's green container collection stream recover 75 percent of the organic content received at the facility. (2) The sampling conducted of the gray container collection stream by solid 11 waste facilities serving the jurisdiction pursuant to section Sections 17409.5. 7-12 17409.5. 7.2 and Sections 20901-20901.2 demonstrates an average weight of 13 organic waste present in gray container material of less than 25 percent,</p> <p>It appears this section could set different outreach requirements for jurisdictions that qualify as having Performance-Based Source Separated Collection Service. If so, can this be clearly stated by incorporating a reference to Article 17 rather than listing the requirements to qualify as Performance-Based Source Separated Collection Service? Especially since there some requirements for a Performance-Based Source Separated Collection Service that are absent from this list.</p> <p>Instead, the City recommends this text be updated thus:  Title 14, Chapter 12, Article 3, Section 18985.1 (f) A jurisdiction is only required to provide the education and outreach material required by this section every other year if <b>they meet the requirements of Title 14. Chapter 12. Article 17, Section 18998.1.</b></p>	<p>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.</p> <p>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. Comment noted. CalRecycle disagrees that including a note in each applicable section would add clarity. CalRecycle will provide guidance to jurisdictions implementing a performance-based source separated organic waste collection service regarding the requirements they are subject to or exempt from.</p>
3069	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 4, Section 18986.1 (b) Non-local entities shall provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located, except restrooms.</p> <p>Title 14, Chapter 12, Article 4, Section 18986.2(b) Local education agencies shall provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located, except restrooms.</p> <p>As indicated in Response #14, the City does not see the need to exempt restrooms as a required location for organics collection. The City has a number of "non-local entities" and "local education agencies" within its borders, the largest generator of which is the local school district. The schools within the district are large generators of waste, a significant amount of which is paper towels. In order for the City of Davis to meet CalRecycle organics diversion requirements, paper towels need to be kept out of the landfill.</p> <p><b>The City of Davis requests that this exemption be removed from the regulations.</b></p>	<p>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.</p>
3070	Webb, M., City of Davis	Title 14, Chapter 12, Article 6, Section 18987.1	A change to the regulatory text is not necessary. The use of organics as an alternative daily cover would be considered disposal pursuant to Section 18983.1(a). Facilities, operations, end-uses,

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		<p><b>Please clarify what management options are allowed for digested sludge from a wastewater treatment plant.</b> Since Section 18987.2 was removed, does that mean that digested sludge can be landfilled or used as alternative daily cover without that tonnage counting against jurisdictions as "organic waste landfilled", particularly in relation to qualifying as a Performance-Based Source Separated Collection Service?</p>	<p>and activities that are considered a reduction of landfill disposal are described in Section 18983.1(b).</p>
3071	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 7 Regulation of Haulers  <b>Further description is needed to define "self-haulers" in this section.</b> For example do landscape maintenance businesses that haul yard trimmings away from their commercial and/or residential customers fall under the category of "self-haulers"? Some of these businesses are very small and do not have a business license. Jurisdictions struggle to provide these businesses with information about the required diversion regulations. Please clarify in the regulations how jurisdictions are required to manage all types of landscape maintenance businesses. There may be a need for a separate section that specifically identifies this particular type of business, and what CalRecycle expects from jurisdictions.</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(c) to include all education requirements for single unsegregated collection systems.</p>
3072	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 9 Section 18990. 2  The regulations, as currently written, limit the ways in which a commercial edible food generator is able to keep edible food out of the landfill and organics bin. The City recommends adding some text that allows commercial edible food generators the option to take edible food home themselves, or allow their employees or customers to take food. The City recommends that the following text be added to the regulations:  <b>Section 18990.2(e) Nothing in this chapter shall be construed to limit or conflict with the rights of a commercial edible food generator to provide edible food to their employees, customers, or to keep it for individual reuse, provided that they do not do so in violation of 18991.3(d).</b>  The City requests that the same language be applied to Section 18991.3(b).</p>	<p>Nothing in this chapter prohibits a commercial edible food generator to provide edible food to their employees, customers, or for individual reuse. A revision to the regulatory text is not necessary.</p>
3073	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 10, Section 18991.4  The City anticipates a number of challenges in working with restaurants to maintain records of food donation. These factors include high staff turnover, rush hours, language barriers, and hours of operation outside of standard business hours. 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.  <b>If CalRecycle keeps this requirement in the regulations, the City requests that the State maintain an online reporting system for this purpose.</b> As most restaurants have a license through the CA Dept. of Alcoholic Beverage Control, the City further</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 recordkeeping requirements were not removed is because when commercial edible food generators consistently track their donations over time, they are more likely to reduce the volume of surplus edible food they generate. Prior to 2022, CalRecycle does intend on making SB 1383 recordkeeping tools available to commercial edible food generators to assist them with compliance.</p>

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		<p>requests that the State use their own licensing systems to require edible food generators that have an 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>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 that “the state maintain an online reporting system that restaurants can use,” no changes to the regulatory text were made. Changes to the regulatory text were not necessary because commercial edible food generators are not required to report any information. 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 however required to maintain records.</p>
3074	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 14, Section 18995.2</p> <p>The City appreciates CalRecycle changing the requirement that records be made available to CalRecycle within a single business day.</p> <p>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 systems to maintain. These records may compel some jurisdictions, particularly larger ones, to purchase expensive recordkeeping software and database systems, just to ensure compliance.</p> <p><b>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.</b> 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.</p>	<p>A change to the regulatory text is not necessary. The regulations do not allow the Department to prescribe the method a jurisdiction uses to maintain records. After the passage of the regulations, the Department will be providing implementation guidance which may include compliance tools.</p>
3075	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 14, Section 18995.3</p> <p>The City is concerned about the privacy of its residents and customers. <b>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."</b></p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</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</p>

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			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.
3076	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 16, Section 18997.3, Table 11</p> <p>There are rows in the table that refer to the penalties of non-compliance with requirements of Section 18998.1. (a)(1), (2) and (4) for Performance-Based Source Separated Collection Service, but no details are given for non-compliance with Section 18998.1. (a)(3), arguably the most challenging of the four requirements to achieve and review. Please provide some clarity as to how Section 18998.1. (a)(3) is enforced? <b>The City recommends that enforcement for this section be: Level 1 for the first offense, Level 2 for the second offense and Level 3 for the third and subsequent offenses.</b></p> <p>Also, please provide clarification on how these penalties will be assessed. If a jurisdiction is found in violation of Section 18998.1. (a)(3) for grey container waste that is in excess of 25% organics, is that jurisdiction then fined for each day in the quarter that they were in excess? For each day that year? <b>The City recommends that CalRecycle determine noncompliance with Section 18998.1. (a) on an annual basis, with penalties for violations assessed no more than once per quarter. (i.e. for each quarter that a jurisdiction is in noncompliance, there is a potential for a single penalty).</b></p>	The penalty tables referenced in this comment were removed. The penalty tables in Section 18997.3, including Table 1, were deleted in favor of a minor/moderate/major penalty model modified by various factors. The language revision was intended to provide the Department the ability to set penalties on a case specific basis and weigh issues of equity.
3077	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 17, Section 18998.1 (b) Jurisdictions that delegate collection services to a designee shall include in their contracts or agreements with the designee a requirement that all haulers transport the source separated organic waste collection stream collected from generators subject to the authority of a jurisdiction to a designated source separated organic waste facility.</p> <p>The agreement between the City and our contracted waste hauler requires the hauler to bring the organics they collect to whichever facility the City designates. Is that sufficient to meet the requirements of the section, or would the City be required to amend the agreement to state the specific organic waste facility determined by the City?</p>	Comment noted. If the city requires the hauler to only transport waste to a facility that is a designated source separated organic waste facility, this may be sufficient to meet the requirements of Section 18998.1(a)(2) and Section 18998.1(b).
3078	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 17, Section 18998.3(a)</p> <p>It would be more straightforward if, in addition to listing the sections that jurisdictions with Performance-Based Source Separated Collection Service are exempt from in Section 18998.3(a), there was a note within each applicable section what lists which items are exempt if a jurisdiction has a qualifying Performance-Based Source Separated Collection Service. As this section currently reads, the exact lines of the regulations that are exempt could be interpreted a number of ways.</p>	Comment noted. CalRecycle disagrees that including a note in each applicable section would add clarity. CalRecycle will provide guidance to jurisdictions implementing a performance-based source separated organic waste collection service regarding the requirements they are subject to or exempt from.
3079	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 17, Section 18998.1(a)(3) Ensure that the presence of organic waste in the gray container collection stream does not exceed an aggregate of 25 percent by weight of total solid waste collected in that stream on an annual basis. (A) The percent of organic waste present in the gray container collection</p>	Comment noted. Jurisdictions that intend to implement a performance-based source separated organic waste collection service to certify that they provide a compliant service to 90 percent of generators subject to their authority by April 1, 2022. A jurisdiction that cannot certify that it is providing a service to 90 percent of generators is ineligible to implement a performance-based

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		<p>stream shall be determined by the results of the report submitted to the Department pursuant to Section 18815. 5 (l) demonstrating the results of the sampling performed pursuant to Section 17409.5.7-17409.5.7.2 and Sections 20901-20901.2</p> <p>Section 17409.5.7 states that waste evaluations to determine the ratio of organic material present in the grey container systems will not occur until July 1, 2022. How will the State determine if a jurisdiction has an eligible Performance-Based Source Separated Collection Service prior to July 2022?</p>	<p>source separated organic waste collection. Comment noted. Jurisdictions that intend to implement a performance-based source separated organic waste collection service to certify that they provide a compliant service to 90 percent of generators subject to their authority by April 1, 2022. A jurisdiction that cannot certify that it is providing a service to 90 percent of generators is ineligible to implement a performance-based source separated organic waste collection service. Regarding the recovery efficiency and waste evaluations, the first annual averages will be evaluated when a full year of data is available in 2023.</p>
3080	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 17, Section 18998.1 and Sections 17409.5. 7-17409.5.7.2 Please provide some clarity on how CalRecycle will assess the results of the waste evaluations described in Sections 17409.5.7-17409.5.7.2 (that determine the ratio of organic material present in the grey container systems) in order to decide if a jurisdiction meets the qualifications for Performance-Based Source Separated Collection Service. For example, how frequently will CalRecycle assess the results of the waste evaluations to determine compliance for Performance-Based Source Separated Collection Services?</p> <p>If a jurisdiction sends 700 tons of waste from a grey cart system to the landfill, by these regulations, the landfill would be required to perform 3 waste evaluations of the jurisdiction's trash each quarter. How many of those waste evaluations would need to show less than 25% organics in order for the jurisdiction to continue under the Performance-Based Source Separated Collection Service regulations? Would a single evaluation that shows more than 25% organics be enough to subject the jurisdiction to the enforcement provision of Article 16?</p> <p><b>The city recommends that CalRecycle consider averaging out the results of the waste evaluations, in order to determine compliance with Performance-Based Source Separated Collection Service.</b> Since jurisdictions can have 2-5 waste evaluations per quarter, if CalRecycle used each individual waste evaluation in order to determine compliance, some jurisdictions would be subject to a higher scrutiny (more frequent assessment) than others. In addition, if a jurisdictions' tonnage oscillates every year between the ranges of tonnage required for 2-3 or 3-5 waste evaluations per quarter, every year they would be subject to a different number of review cycles to determine compliance.</p> <p>To make evaluations more consistent throughout the state, and to provide jurisdictions with more certainty to the timeliness of their reviews, the City recommends that CalRecycle average out the results of the waste evaluations each year in order to determine compliance. Clearly defining how these evaluations will be applied in order to avoid confusion and inequity is a key component of this article.</p>	<p>CalRecycle has revised the gray container waste evaluations in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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. The purpose of the gray container waste evaluations 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>
3081	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 17, Section 18998.1 (d)</p> <p>What is the review cycle for CalRecycle to determine jurisdiction compliance for their Performance-Based Source Separated Collection Service? Will CalRecycle analyze all five requirements (1)-(5) on a yearly basis? Quarterly? As some of the</p>	<p>Comment noted. The requirement to provide organic waste collection service is a constant requirement, it is not reviewed in arrears or set on a baseline. If a jurisdiction elects to implement a performance-based organic waste collection service, it must be capable of demonstrating that</p>

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		<p>conditions for Performance-Based Source Separated Collection Service are examined more frequently (waste evaluations), the regulations should specifically define how the jurisdictional review process should occur.</p> <p>The City recommends that CalRecycle analyze requirements (1)-(5) of a Performance-Based Source Separated Collection Service on a yearly basis in order to determine compliance.</p>	<p>90 percent of the commercial and residential generators subject to the jurisdiction's authority have service.</p> <p>CalRecycle will verify compliance with this requirement through a review of records that jurisdictions are required to maintain, as well as through a review of relevant information reported to CalRecycle by the jurisdiction.</p> <p>Jurisdictions are required to report the number of generators subject to their authority under Article 13. Jurisdictions are required to maintain records showing the total number of generators subject to their authority, and the total number of generators subject to their authority that receive services, and a list of generators that do not receive service. The method of demonstration is left to the discretion of the jurisdiction but should be based on substantial evidence. Jurisdictions are also required to annually report on the total number of generators that receive each type of collection service.</p> <p>Under Section 18995.2 All records maintained in the implementation record need to be current within 60 days (i.e. up to the last two quarters).</p>
3082	Webb, M., City of Davis	<p>Title 14, Chapter 12, Article 17, Section 18998.3(a)(1) The collection requirements in Sections 19884.1, 19884.2, and 19884.3, container contamination minimization requirements in Section 18984.5, container labeling requirements in Section 18984.8, and waivers and exemptions requirements in Section 18984.11</p> <p>This text is at odds with 18998.1(a)(1) which requires compliance with 18984.1.</p> <p><b>Please provide some clarification in the text about which portion of 18984.1 jurisdictions would be exempted from if their collection programs qualify as Performance-Based Source Separated Collection Service.</b></p>	<p>Comment noted. The language was amended in the final draft to address conflicting statements regarding exemptions and compliance requirements.</p>
3083	Webb, M., City of Davis	<p><b>Changing out lids to conform to a design standard will be an unnecessary cost burden on jurisdictions.</b> The City is very appreciative that CalRecycle amended the regulation to require only the lids of trash, recycling and organics collection containers 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. Unlike other sections of the regulation that will actively increase access to organics and recycling service and can increase waste diversion, it seems 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 the City uses do not conform to the colors identified in the draft regulation. In Davis, commercial recycling carts are green, organics carts have a brown lid, and the split-recycling cart has a grey body with a blue and black lid.</p> <p>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. While the City appreciates that CalRecycle extended the deadline to change out cart lids until 2036 in order to account for these new carts, regardless of the date that is set this regulation will have the unintended consequence of cart lids being changed out much sooner, far before the end of their useful life. This would not only be extremely costly, but</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>



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		<p>wasteful as well. Many cities may decide to change everything out much sooner than 2036 just to avoid the customer confusion with the new and old colors being in service at the same time.</p> <p><b>To this end, the City makes the following requests:</b></p> <p><b>a. 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.</b></p> <p><b>OR</b></p> <p><b>b. Add some flexibility to the regulations to allow jurisdictions with existing 3-bin systems, particularly those that qualify as Performance-Based Source Separated Collection Service 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.</b></p> <p><b>OR</b></p> <p><b>c. 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.</b></p>	
3084	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, recordkeeping, violation reporting and monitoring process, etc. will be a significant cost to jurisdictions and ratepayers. While 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 are rejected by ratepayers. 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> <p><b>To this end, the City makes the following requests:</b></p> <p><b>a. 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.</b></p> <p><b>b. Recognizing that in some jurisdictions, solid waste rate increases are required to go through the Proposition 218 process, the City requests that CalRecycle provide</b></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>

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		<p><b>options for jurisdictions where this occurs and provide assistance with the 218 process to ensure the success of implementing these mandated programs.</b></p>	<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. 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>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 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>
3085	Webb, M., City of Davis	<p><b>In addition to the concerns listed above, the City of Davis requests that as part of these regulations, CalRecycle provide the following resources:</b></p> <p>a. <b>Waste evaluations performed and made public no later than July 2020.</b> In order for jurisdictions to plan for SB 1383 implementation, they will need to know ahead of time if they will qualify as Performance-Based Source Separation Service. This is a key component in the planning of service fees, staffing levels, and contracts with waste haulers. Jurisdictions will need to know far in advance of the January 2022 date whether or not they will qualify to start off as Performance-Based Source Separation Service, or if they will need to increase route audits, etc., as required for all those jurisdictions that are not qualified;</p> <p>b. <b>Model ordinances.</b> The depth and breadth of what is covered under these new regulations places a particular challenge on jurisdictions to develop language for 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> <p>c. <b>Sample outreach materials.</b> As this regulation provides numerous requirements for specific outreach items, the City requests that the state provide sample outreach</p>	<p>CalRecycle intends to allow jurisdictions to report electronically. Jurisdictions are not required to report the contents of their implementation record, only to maintain copies. CalRecycle's will provide guidance and tools regarding these requirements before the regulations take effect.</p> <p>Comment noted. This comment does not recommend a specific change to the regulatory text. Per the statutory language of SB 1383, The regulations related to Article 17 cannot take effect prior to January 1, 2022. 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>

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		<p>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;</p> <p><b>d. Translated text of all required outreach materials.</b> 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;</p> <p><b>e. Compliance training.</b> There are many facets to these regulations which solid waste professionals in California will need training on, including outreach, food donation best practices, and required reporting. The City requests that CalRecycle provides web-based training via multiple modules to address the different requirements of these regulations;</p> <p><b>f. Training for contamination monitoring.</b> As the regulations require every route to be monitored for contamination every quarter, the City requests that CalRecycle provide webbased 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;</p> <p><b>g. Labels.</b> 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;</p> <p><b>h. Indoor recycling and organics bins.</b> 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.</p> <p><b>i. Web-based calculation worksheets.</b> 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;</p> <p><b>j. Training on Health Code regulations surrounding edible food donation regulations and serving food.</b> The Edible Food Recovery Program described in the</p>	

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		<p>regulations is extensive and is outside of the experience of most individuals in 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;</p> <p>k. <b>Postponement of implementation until assistance is provided.</b> Lastly, the City is requesting that Cal Recycle postpone the implementation of these regulations until after the assistance requested above has been provided;</p> <p>l. <b>Online reporting system for Commercial Edible Food Generators.</b> The City requests that the state develop and 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>m. <b>Online database and reporting system.</b> There are many items that are required to be reported to CalRecycle and included in the implementation record, all of which will require additional time for jurisdictions to compile and to create a new accounting and record systems to maintain. These records may compel some jurisdictions, particularly larger ones, to purchase expensive recordkeeping software and database systems, just to ensure compliance. 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 also give CalRecycle continual access to the records.</p>	
7014	Wechsler, M., Urban Ore, Inc.	<p>17409.5.6</p> <p>According to Table 1 in the 1383 Infrastructure and Market Analysis Report, 11.78% of organic landfill generation could qualify for a reuse end-use. This number would be larger if other categories of goods commonly sold for reuse, such as doors, windows, and furniture, were included in the study. The reuse end-use is at the top of the state's Waste Management Hierarchy for good reason. Just as food donation is the highest and best use of food by feeding people and reducing GHG's, deconstruction and reuse is the highest and best use of wood as it directly extends the life of the material, preserves its cultural and economic value, mitigates lifecycle GHG impacts by reducing the demand for virgin timber, and creates local jobs.</p>	<p>A change to the regulatory text is not necessary. Section 17409.5.6 (a)(2) was changed to add Subdivision (a)(2) based on comments received during the 45-day comment period asking for clarification regarding the measurements for construction and demolition debris that are kept separate from other waste stream. The change specifies that construction and demolition debris kept separate from other waste stream shall not be included in the measurement sampling. 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</p>

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		<p>However, the new proposed language of Section 17409.5.6 (1) exempting Construction and Demolition Debris (including lumber) for measurements under SB 1383 is counter to the specific legislative intent to include lumber and wood as covered materials.</p>	<p>debris that is comingled with other waste streams would be handled as a mixed waste organic collection stream.</p>
7015	Wechsler, M., Urban Ore, Inc.	<p>Wood is largely neglected in C&amp;D regulations because it weighs less than the inert materials that often qualify projects for reaching diversion requirements. For example, in San Francisco, less than 1% of wood is site-separated, and only .4% is recovered. A major issue is that the recovery paths for wood aren't as feasible or beneficial as are those available for inert materials. The value of a resource made from wood—whether it be a piece of dimensional lumber, a door, or a desk—is lost during the instant that it is crushed by construction equipment, a compacter, or the weight of the materials on top of it. These are organic materials (unlike inerts) that generate methane in anaerobic conditions. Given that wood is not being recovered under CalGreen, and biomass facilities are closing statewide, the proposed draft CalRecycle regulations do not propose any actions that will keep the tremendous stocks of building-related wood out of landfills. There is an important need to work with CARB on a wood reuse emissions factor, because currently it is non-existent, and the only CO2E emissions reduction factor on the WARM for wood materials has biomass as the end-use.</p>	<p>Comment noted. Wood 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. Additionally, a change to the regulatory text is not necessary because CalRecycle already included reusable wood recovery in the education and outreach requirements in Article 4. CalRecycle cannot use these regulations to make changes to the requirements of other state agencies that pertain to building construction and deconstruction. CalRecycle will separately pursue working with the Building and Standards Commission to, for example, amend the California Residential Code to allow the use of salvage lumber, amend CALGreen to require 20% reuse, and require the diversion of demolition derived wood products.</p>
7016	Wechsler, M., Urban Ore, Inc.	<p><b>I strongly and respectfully urge CalRecycle to add building-related wood diversion requirements, and specifically the highest and best use of building related wood materials— reuse—throughout the final regulation.</b> There is a critical need to not exclude deconstruction and the potential to divert huge quantities of recoverable wood from buildings that are currently landfilled in California under existing California CalGreen 65% diversion requirements. In order to maintain a demand for salvaged lumber and to allow its reuse under CalGreen, state and jurisdictional procurement requirements must be modified; Oregon has done this already with its building code. Also, mandatory deconstruction (rather than demolition) ordinances have been established in Portland, Oregon, and recently in Palo Alto. These programs should be monitored, supported, and considered for later adoption on a statewide scale.</p>	<p>Comment noted. Wood 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. Additionally, a change to the regulatory text is not necessary because CalRecycle already included reusable wood recovery in the education and outreach requirements in Article 4. CalRecycle cannot use these regulations to make changes to the requirements of other state agencies that pertain to building construction and deconstruction. CalRecycle will separately pursue working with the Building and Standards Commission to, for example, amend the California Residential Code to allow the use of salvage lumber, amend CALGreen to require 20% reuse, and require the diversion of demolition derived wood products.</p>
7017	Wechsler, M., Urban Ore, Inc.	<p>Specific changes the reuse industry would like to see are incorporated in italics:  1. Section 18982. Definitions  (14.5) ADD: <b>(C) The facility is a “building materials or wood reuse facility as defined in [TBD – see below].”</b>  ADD New Related Proposed Definitions tied to comment on new language under 14.5:  <b>(X) "Wood Recovery" is any activity used to divert wood products from the landfill, including, but not limited to deconstruction, used furniture collection and distribution, used furniture reupholstery, building materials reuse retail or wholesale facility, wood recovery for remanufacturing into usable wood products.</b></p>	<p>Comment noted. Wood 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.</p>

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		<p><b>(XX) "Building materials deconstruction or wood reuse" means actions to recover, collect and distribute wood materials for reuse that would otherwise be disposed. This may include deconstruction activities for whole buildings and renovations as well as recovery of wood building materials from new construction sites.</b></p> <p><b>(XXX) "Building materials deconstruction or wood reuse facility" means an entity that engages in the systematic dismantling of buildings, collection or receipt of reclaimed wood from buildings or structures and distributes that used wood for reuse through entities, including, but not limited to job site reuse, nonprofit charitable organizations, institutional, governmental, commercial, or industrial organizations.</b></p> <p><b>(XXX) "Building materials deconstruction service" means a person or entity that dismantles by hand and collects reusable lumber and wood products from buildings or structures for reuse.</b></p>	
7018	Wechsler, M., Urban Ore, Inc.	(69) "Source-separated organic waste" means organic waste that is placed in a container that is specifically intended for the separate collection of organic waste by the generator <b>COMMENT ADD "or is building materials/wood deconstructed or collected via self-haul or designated container specifically for material reuse, or wood products collected for reuse (i.e. furniture)."</b>	Comment noted. It is not necessary to define terms, or amend the definition of terms in the regulations to include terms that are not specifically used in the regulations, or are commonly understood.
7019	Wechsler, M., Urban Ore, Inc.	<p><b>2. RETITLE Article 8. "Jurisdiction Wood Waste Recovery Programs, Wood Generators, and Wood Recovery."</b> Wood waste consists of more than just lumber. Treated and mixed materials wood waste consists of everything from kitchen cabinets to furniture. Wood should not be assumed to be just C&amp;D waste, and it should be addressed beyond the scope of CalGreen. This section needs to address the larger discarded wood supply, and research should be conducted to determine just how much wood truly is in our discard stream.</p> <p><b>3. If #2 above is not acceptable, ADD under Article 8, "Wood Recovery shall be incorporated into CalGreen with specific targets that need to be identified with diversion goals increasing each year 20% similar to food waste recovery."</b> Other wood waste (furniture, cabinetry, etc.) needs to be addressed here as well.</p>	CalRecycle already included reusable wood recovery in the education and outreach requirements in Article 4. CalRecycle can separately pursue working with the Building and Standards Commission to incorporate additional reuse policies in the building code as appropriate. However, CalRecycle cannot use these regulations to make changes to the requirements of other state agencies that pertain to building construction and deconstruction.
7020	Wechsler, M., Urban Ore, Inc.	<b>4. ADD/REPLACE Article 9 with "Wood Waste Recovery Capacity Planning":</b> create a new section here detailing how this will be done with stakeholder input. Create a deadline for this Article to be completed, and create a rule that it will not impede the remainder of the organic waste rules related to food recovery and composting.	Comment noted. A text revision is not necessary because CalRecycle Article 9 pertains to overall organic waste recovery standards and edible food recovery standards which are necessary to effect CalRecycle's responsibility to meet statutory goals for reductions in organic waste disposal and recovery of edible food. Replacing these sections with Wood Waste Capacity Planning is too restrictive to accomplish these goals.
7021	Wechsler, M., Urban Ore, Inc.	<b>5. Article 11: Organic Waste DELETE (Recycling) and REPLACE with "Recovery" Capacity Planning</b>	The term recycling is used in this specific article to align with existing capacity planning terminology codified by AB 876 (2016). A change to the regulatory text is not necessary.
7022	Wechsler, M., Urban Ore, Inc.	<b>6. Article 12: Procurement</b>	This is not a comment, but a header to a comment. Should have not been assigned a comment number.

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7023	Wechsler, M., Urban Ore, Inc.	To increase the economic viability of reclaimed wood on a large scale, procurement from the reuse industry needs to be promoted. To do so: Add under Section 18993.1. (f): (4) Reclaimed wood or products made from wood diverted from the landfill.	The commenter’s suggestion to include “reclaimed wood” lacks the landfill diversion verification and conversion factor(s) necessary for inclusion in Article 12. While CalRecycle appreciates the comment’s focus on diverting wood from the landfill, “reclaimed wood” or “products made from wood diverted from the landfill” is too broad and unspecific, and it would be difficult for CalRecycle to enforce.
7024	Wechsler, M., Urban Ore, Inc.	7. Section 17409.5.6. Source Separated Organic Waste Handling. <b>ADD7 (C) Source-separated wood waste removed from construction sites, workplaces or residences should be:</b> <b>1. Add specific language here. Language to be determined through stakeholder meetings.</b>	A change to the regulatory text is not necessary. Section 17409.5.6 (a)(2) was amended to add Subdivision (a)(2) based on comments received during the 45-day comment period asking for clarification regarding the measurements for construction and demolition debris that are kept separate from other waste stream. The change specifies that construction and demolition debris kept separate from other waste stream shall not be included in the measurement sampling.
4313	Weihe, S. County of San Diego Public Works	FYI <a href="http://thealmonddoctor.com/2019/06/30/cover-crop-research-almonds/?utm_source=feedburner&amp;utm_medium=twitter&amp;utm_campaign=Feed%3A+TheAlmondDoctor+%28The+Almond+Doctor%29">http://thealmonddoctor.com/2019/06/30/cover-crop-research-almonds/?utm_source=feedburner&amp;utm_medium=twitter&amp;utm_campaign=Feed%3A+TheAlmondDoctor+%28The+Almond+Doctor%29</a>	Comment noted. Commentor provided CalRecycle with a website about almond crops.
3174	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18981.2 (d) Under General Provisions, says that jurisdictions can’t delegate authority to impose penalties. Zero Waste Sonoma is a JPA representing 10 different jurisdictions. Under the definition of a “Jurisdiction”, it says that JPAs can be used to comply with requirements. Question: Would using a JPA for enforcement constitute delegation?	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.
3175	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18984 (c) <b>Typo for the sections listed – 198984 should be 18984.</b>	Thank you for the comment. CalRecycle has revised Section 18984(c) to remove an extra digit within the numbers.
3176	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18984.1 <b>(a) (1) (A) Recommendation- remove this addition.</b> This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.	These regulations specify the minimum standards that apply to each type of collections service that a jurisdictions 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.
3177	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18984.1 (A and B) Recommendation: <b>Amend (A) to say “Carpets and non-compostable paper shall not be collected in the green container.”</b> And then <b>amend (B) to say, “Hazardous wood waste shall not be collected in the blue, gray, or green container.”</b>	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

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			<p>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. This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers.</p> <p>For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3. This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a></p> <p>CalRecycle will clarify will provide jurisdictions the guidance from DTSC.</p> <p>For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.</p> <p>Non-compostable paper is still an organic waste. Paper is organic whether it is coated in plastic or other non-compostable material. Paper additionally constitutes a significant portion of the waste stream.</p> <p>With respect to Section 18984.5(f), including non-compostable paper in this section (as an organic material that is not required to be measured as organic waste in a gray container evaluation) would encourage the continued disposal of this material, and would discourage jurisdictions and haulers from identifying recovery solutions for this material. If jurisdictions are unable to find methods to recovery non-compostable paper, they may consider options to prevent its introduction into their waste stream in the first place, rather than solely relying on collection and recovery. Including non-compostable paper in this section would encourage the continued disposal of a significant source of organic waste.</p> <p>With respect to Section 17409.5.7(c)(3), the gray container waste evaluations are not jurisdiction-specific. The evaluations will provide critical data that will inform policy making for jurisdictions and the state by providing data on organic waste that is still collected in gray containers in jurisdictions. Jurisdictions that implement a three-container organic waste collection service are required to prohibit the placement of organic waste in the gray container unless the jurisdiction specifically transports the gray container to a high diversion organic waste processing facility that recovers 75 percent of the organic content in the gray container. This data will reveal general levels of regulatory compliance, as well as inform the department on the progress toward achieving the SB 1383 targets. Excluding non-compostable paper from this measurement would distort the amount of organic waste identified as being disposed.</p> <p>With respect to Section 17867(a)(16), these measurements are performed by composting facilities evaluating the organic content of the residuals that are sent to disposal. Non-compostable paper should not be received at compost facilities and should not be included in the composting</p>



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			<p>process. Non-compostable paper is allowed not to count against the measurements compost facilities perform as doing so would penalize the facility for removing a non-compostable contaminant from the composting process.</p> <p>With respect to Section 18982(a)(55)(B), this section does not state that non-compostable paper does not need to be measured as organic waste. This section states that non-compostable paper shall be considered a prohibited container contaminant if it is included in the green container. 18982(a)(55)(B) does not state that those materials are allowed in the gray container. Allowances for the collection of organic waste in the gray container are made in the organic waste collection requirements in Article 3. The construction of 18982(a)(55)(D) specifies that paper products, which includes non-compostable paper, may be collected in the blue container. In other words, non-compostable paper should be collected in the blue container for recovery, it should not be collected in the green container, and it should only be collected in the gray container if the jurisdiction hauls the gray container to a high diversion organic waste processing facility.</p>
3178	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.1            (5) Recommendation- <b>remove section</b>. This seems to be overly prescriptive. Question: Why are these three materials called out? There are other materials that shouldn't go in the green container. Also, who is to say there won't be a truly compostable carpet invented. In this case we would be limiting the ability to compost it.</p>	<p>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.</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>
3179	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.1            (d) Recommendation- <b>remove this addition</b>. This seems to be overly prescriptive. Whether a facility accepts certain materials in a bag should not be part of the regulation. They will enforce their policies with those bringing material to them.</p>	<p>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.</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>
3180	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.2            (a)(1)(C) Recommendation: <b>remove this addition</b>. This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.</p>	<p>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.</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>

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3181	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18984.2 (c) Recommendation: <b>(1) to say, “Carpets and non-compostable paper shall not be collected in the green container.”</b> And then amend <b>(2) to say, “Hazardous wood waste shall not be collected in the blue, gray, or green container.”</b>	<p>Also, biohazardous and household hazardous materials must be managed in accordance with other state laws and regulations.</p> <p>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. 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 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. This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers.</p> <p>For the comment about pre-1924 organic lumber, the ‘organic lumber’ is organic waste and will be subject to the recycling requirements in Article 3. This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a></p> <p>CalRecycle will clarify will provide jurisdictions the guidance from DTSC.</p> <p>For the comment about pre-1924 organic lumber, the ‘organic lumber’ is organic waste and will be subject to the recycling requirements in Article 3.</p> <p>The construction of 18982(a)(55)(D) specifies that paper products, which includes non-compostable paper, may be collected in the blue container. In other words, non-compostable paper should be collected in the blue container for recovery, it should not be collected in the green container, and it should only be collected in the gray container if the jurisdiction hauls the gray container to a high diversion organic waste processing facility.</p>
3182	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18984.2 (f) Recommendation - <b>remove this addition.</b> This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them	<p>These regulations specify the minimum standards that apply to each type of collections service that a jurisdictions 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.</p>

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			<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>
3183	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.4            (4) Recommendation - <b>remove this addition.</b> Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.</p>	<p>These regulations specify the minimum standards that apply to each type of collections service that a jurisdictions 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.</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>
3184	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.4            (5) Recommendation - <b>remove this addition.</b> Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.</p>	<p>These regulations specify the minimum standards that apply to each type of collections service that a jurisdictions 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.</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>
3185	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.5 Container Contamination Minimization (b) annual route review for prohibited container contaminants on randomly selected containers            (b)(4)(A) Recommendation: <b>Remove this section.</b> Private arrangements between a jurisdiction and a designee should not be dictated in the regulation.</p>	<p>Jurisdictions need to ensure that haulers are not disposing of material unnecessarily. Additionally, many commenters requested during the 45-day comment period that this be added to ensure that jurisdictions have this oversight and discretion.</p>
3186	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.5 Container Contamination Minimization (b) annual route review for prohibited container contaminants on randomly selected containers            (b) Question: How many randomly selected containers per route are considered a sufficient sample size to meet the route review requirement?</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>
3187	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.6 (4), pg 25: "Documentation of the number of containers disposed..."            Question: does this mean the number of truckloads of recyclables/organics sent to landfill because they were deemed too contaminated?</p>	<p>This section refers to the number of containers and not the number of truckloads.</p>

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3188	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.8 Container Labeling Requirements (a) jurisdiction shall place a label on each new container or lid provided to generators.</p> <p>Question: Does this labeling requirement apply to new containers only? OR, are jurisdictions required to label all generators' existing containers?</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> <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>

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			<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>
3189	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18984.8 Container Labeling Requirements (a) jurisdiction shall place a label on each new container or lid provided to generators.</p> <p>(c) – Recommendation: <b>Add “primary” between “indicate items.”</b> This is consistent with (b)(1) where it indicates primary materials accepted. You can’t have a complete list of prohibited containers so only primary items should be required.</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> <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,</p>

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			<p>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>
3190	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18984.11 (c), Question: would it be acceptable for JPAs to issue exemption waivers to organic material generators?	JPAs are included the definition of 'Jurisdiction' in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.
3191	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18984.1 (3), Would the contact person you require be from each of the individual jurisdictions, or would a person from the JPA representing these jurisdictions suffice?	JPAs are included the definition of 'Jurisdiction' in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA.
3192	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18985.1 (e), pg 33: The cost of producing all educational materials in multiple languages is extremely high if we were to use 0.5% as the threshold. Assuming Google is correct that Sonoma County has a population of 500,000 people, 0.5% is 2500 people. Recommendation: <b>Threshold should be increased to 10,000 people or 5% for (1), and 50,000 or 10% for (2).</b>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.
3193	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	18986.1 (c)(1)- Recommendation - <b>Remove this addition.</b> This seems to be overly prescriptive. Why are these three materials called out? There are other materials that shouldn't go in the green container. Also, who is to say there won't be a truly compostable carpet invented. In this case we would be limiting the ability to compost it.	<p>These regulations specify the minimum standards that apply to each type of collections service that a jurisdictions 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.</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>
3194	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	18986.2 (c)(1) Recommendation - <b>Remove this addition.</b> This seems to be overly prescriptive. Why are these three materials called out? There are other materials that shouldn't go in the green container. Also, who is to say there won't be a truly	These regulations specify the minimum standards that apply to each type of collections service that a jurisdictions 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.

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		compostable carpet invented. In this case we would be limiting the ability to compost it.	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.
3195	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Questions: Can you clarify who is a self-hauler and how jurisdictions are to identify and locate haulers and self-haulers?	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. 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. 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.
3196	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Questions: Will CalRecycle be providing a model ordinance for jurisdictions regarding self-hauling?	Thank you for the comment. CalRecycle will provide a model ordinance.
3197	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Questions: What category are landscape companies under, are they generators and therefore self-haulers	The definition of ‘hauler’ in Section 18982(a)(31) of these regulations refers to existing Title 14 Section 18815.2(32): ‘Hauler’ means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. ‘Hauler’ includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler. As described, “organic maintenance services” would be landscapers which are self-haulers as they are the actual entity generating this waste.
3198	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Questions: How are jurisdictions required to monitor self-haulers and landscape companies?	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.

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			<p>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 definition of 'hauler' in Section 18982(a)(31) of these regulations refers to existing Title 14 Section 18815.2(32): "'Hauler' means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. 'Hauler' includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler." Landscapers are self-haulers as they are the actual entity generating the waste.</p> <p>Landscapers are self-haulers and if the jurisdiction allows landscapers to self-haul, then the jurisdiction needs to explicitly include this in its enforcement ordinance. The enforcement ordinance needs to require all self-haulers to meet the requirements of Section 18988.3, which while it does not require registration, does require that self-haulers recycle the organics, either through SSO or hauling to a HDOP.</p>
3199	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18989.2            Suggestion: <b>Delete entire section related to Model Water Efficient Landscape Ordinance – there is no relation to organics management. Strike this provision and any associated penalties resulting from this section within SB 1383 regulation text.</b></p>	<p>Thank you for the comment. CalRecycle has revised Section 18989.2(a) to correct the citation. The change above addresses commenters questioning that this does not refer to organics.</p>
3200	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18991.5 (a)            Suggestion: We request that the 6-ton threshold for reporting be restored, so as to read: "... that collects or receives 6-tons or more of edible food...". Non-profit food recovery organizations are typically run by volunteers on limited budgets. Setting a reporting threshold for organizations that handle larger volumes puts less burden on smaller organizations. This change would also be replicated to Article, 13 18994.2 (h)(2).</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 or written agreement with a food recovery organization that collects less than 6 tons per year, and also claim that they donate the maximum amount of their edible food that would otherwise be disposed to that food recovery organization. Because the food recovery organization that the generator claims they contract with recovers less than 6 tons of food per year, the jurisdiction would not be able to 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 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</p>



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			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.
3201	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Questions: "Jurisdiction" is generally referenced in the SB 1383 text, but in this section, you reference "counties." What does "counties" mean?	The term 'counties' is commonly understood. This article references 'counties' because they are the lead in this capacity planning effort.
3202	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Questions: Can a regional agency (i.e. JPA) report on behalf of its member agencies?	JPA's are included the definition of 'Jurisdiction' in Section 18984(a)(36). Further Section 18981.2 specifies that a jurisdiction may delegate certain responsibilities to a public entity such as a JPA. A Regional Agency is allowed to act on behalf of the jurisdiction depending on the specificity in the Regional Agreement. A Regional Agency may act on behalf of a county.
3203	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18994.1 (3) Question: is it required that the contact person be from each of the individual jurisdictions? Can a name from the Agency/JPA suffice for all covered jurisdictions?	A change to the regulatory text is not necessary. If a Joint Powers Authority is being utilized to comply with the chapter, an employee of the JPA may be reported as the contact person.
3204	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18994.2 Recommendation: It would make most sense to not have an annual report due in 2022. Jurisdictions have to report on the entire CY 2022 again by August 1, 2023 – seems redundant.	This comment was made during the 45-day comment period and is not germane to changes made to the regulations in the 15 day comment period.
3205	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	18994.2 (b) (4) & (5) Recommendation: <b>Remove these additions.</b> This seems to be overly prescriptive. Whether a facility accepts certain materials should not be part of the regulation. They will enforce their acceptable/non-acceptable materials with those bringing material to them.	A change to the regulatory text is not necessary. This requirement is necessary to ensure that plastic is successfully being removed from the organic waste stream and not contributing to contaminants in the system. Reporting the facilities accepting organic material in plastic bags will inform CalRecycle if the plastic is showing up in the contaminant testing at those facilities.
3206	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Question: Documentation is required for route reviews, compliance reviews, contamination checks, etc. Will CALRecycle be providing form templates? Or will jurisdictions be on their own to develop these forms?	This comment is not germane to changes made to the regulations in the 15 day comment period. The applicable documentation requirements were included in the initial regulatory language released during the 45 day comment period.
3207	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18997.2 <b>Suggestion: Non-profit food recovery organizations should not be penalized if they are keeping records in good faith.</b> <b>At a minimum, eliminate enforcement actions against food recovery organizations that are recovering less than 6-tons of food per year.</b>	A change to the regulatory text is not necessary. If a jurisdiction finds a non-profit food recovery organization is not keeping records, it may allow 60 days for them to correct before issuing a Notice of Violation. The penalty ranges in section 18997.2 are consistent with Government Code sections 53069.4, 25132 and 36900
3208	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18997.3 <b>Table 1, pg 76: Recommendation: Needs insertion in bold "Jurisdiction fails or continues (to fail) to transport waste, to a facility that meets the high diversion requirements..."</b>	The penalty tables in Section 18997.3, including Table 1, were deleted in favor of a minor/moderate/major penalty model modified by various factors. The language revision was intended to provide the Department the ability to set penalties on a case specific basis and weigh issues of equity.
3209	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18997.3 <b>Table 2, pg 79: Typo should be corrected to "Jurisdiction fails to provide education and outreach materials..."</b>	CalRecycle has revised section 18997.3 (b) in response to this comment. The text will be change accordingly.

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3210	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18998.1 (a)</p> <p>Expecting that jurisdictions provide a 3-container collection service to 90% of all generators in order to participate in the performance-based program is unreasonable. Sonoma County has a very large population of self-haulers, most of them because they are in rural areas and/or in the agricultural sector. Suggestion: <b>This requirement should be changed to “If 10% or less of all generators in the jurisdiction are non-compliant, then the jurisdiction qualifies for a performance-based program.”</b></p>	<p>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 are 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.</p>
3211	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18998.1 (a)</p> <p>Comment: The requirement to automatically enroll all new customers effectively creates mandatory collection service, which in Sonoma County is not universal. There are still many self-haul customers, especially in the more rural areas of the county that would be strongly opposed to mandatory service. Suggestion: <b>Please consider revising the requirement to allow for a modified program in unincorporated rural areas that permits a jurisdiction to meet the performance-based requirement while maintaining individual customer’s ability to self-haul.</b> One suggestion would be to (for rural areas) eliminate the “automatically enroll” provision and clarify that the 90% requirement relates to the percentage of customers signed up for collection service as opposed to all customers residing in the collection area.</p>	<p>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 are 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.</p>
3212	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Section 18998.1 (a)</p> <p><b>Suggestion: (4) For the first sentence about automatic enrollment, amend to the following: “...organic waste collection service within 30 days of occupancy of a business or residence unless the commercial entity explicitly requests an exemption that is approved by the jurisdiction.”</b></p>	<p>Comment noted. The provision requiring 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.</p>
3213	Wells, K., Sonoma County Local Task Force on	<p>Section 18998.1 (a)(A)(4)</p> <p>Questions: How are jurisdictions/haulers to automatically enroll new businesses or residents?</p>	<p>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</p>

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	Integrated Waste Management	How would a jurisdiction know in advance which service level to provide?	consistent with provisions of Article 3. This text, importantly, still requires jurisdictions are 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.
3214	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18998.1 (a)(A)(4) <b>Suggestion: Instead of requiring “automatic enrollment” please consider allowing for phased-in universal or mandatory service whereby existing customers can choose to self haul (grandfathered) until there is a change of occupancy or service is signed up for voluntarily. This would allow for mandatory service to be phased-in over time.</b>	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 are 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.
3215	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18998.1 (b) Question: How will this work with generators who self-haul or other haulers, such as landscapers, who are hauling organics in a jurisdiction? Will the designee have to oversee all efforts by other haulers in the jurisdiction?	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 are 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

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			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.
3216	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 18998.3 (a) It says here jurisdictions must notify CalRecycle annually “on or before Jan 1 of that year” if they intend to implement a performance-based program. However, on pg. 90 in Table 11, it says jurisdictions must notify CalRecycle 180 days before. Question: Which one is it? Language should be consistent.	Comment noted. Table 11, which was a table setting out specific administrative civil penalty ranges for specific violations, was deleted from the final regulatory text thus resolving the inconsistency.
3217	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 17409.5.2-6 Comment: Please consider revising the sample frequency in these sections (and others as applicable) from <del>10</del> consecutive days to <b>7</b> consecutive days. This should still provide reliable data while reducing the operational and cost impact to these facilities.	A change to the regulatory text is not necessary. The sampling frequency of 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. 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 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. 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.
3218	Wells, K., Sonoma County Local Task Force on	Section 17409.5.4 (A) <b>Recommendation: add in the bolded text, “For each annual reporting period...”</b>	A change to the regulatory text is not necessary. The reporting period for transfer/processing facilities is quarterly, not annual, as described in the existing Title 14 regulations under section 18815.5.

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3219	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 17409.5.5. Recommendation: (1) Since these samples are of the residuals, should they not be smaller than 200 pounds or perhaps sampled less frequently?	A change to the regulatory text is not necessary. Section 17409.5.5 (b)(2) specifies the sampling size if the waste stream is less than 200 lbs. In this case, the operator would sample all the waste sent to disposal that day.
3220	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Section 17409.5.5. Recommendation: <b>(2) Amend language to be consistent with Section 17867 (B), pg 130: "If the total weight of material sent to disposal in a single operating day is less than 200 pounds, the operator shall sample all of the material that is sent to disposal that day."</b>	CalRecycle has revised the section accordingly.
3221	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	Chapter 3.1. Composting Operations Regulatory Requirements; Article 5.0. Composting Operation and Facility Siting and Design Standards; Article 3 Operating Standards for In-Vessel 19 Digestion Operations and Facilities Comment: Please consider revising the sample frequency in these sections (and others as applicable) from <del>10</del> consecutive days to <b>7</b> consecutive days. This should still provide reliable data while reducing the operational and cost impact to these facilities.	<p>A change to the regulatory text is not necessary. The sampling frequency of 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 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>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>
3222	Wells, K., Sonoma County Local Task Force on	Chapter 9: Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans; Article	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

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	Integrated Waste Management	<p>9.25 Recycling and Disposal Reporting System; Section 18815.5 (e) Reporting Requirements for Transfer/Processors.</p> <p>Comment: <b>Please correct or clarify the follow language in this section and others (Emphasis added)</b>, “(1) The Department shall determine the quarterly recovery efficiency by dividing the <del>value</del> of recovered organic waste reported in subdivision (d)(2)(A)[Recovered Organics (RO)] by the combined <del>value</del> of recovered and disposed organic waste reported in (d)(2)(A) and (d)(2)(B)[Total Available Source Separated Organic Waste (TASSOW)]: RO/TASSOW = Recovery Efficiency”</p>	<p>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>
3223	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>Chapter 9: Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans; Article 9.25 Recycling and Disposal Reporting System; Section 18815.5 (e) Reporting Requirements for Transfer/Processors.</p> <p><b>Suggestion: Instead of using “value” above, should consider using “volume” or “quantity.”</b></p>	<p>CalRecycle revised this section in response to comments. The term “value” was changed to “total weight.” This is necessary to be consistent with the term used in the measurements requirements.</p>
3224	Wells, K., Sonoma County Local Task Force on Integrated Waste Management	<p>AMENDMENTS TO EXISTING TITLE 27 REGULATIONS</p> <p>Environmental Protection Division 2. Solid Waste; Section 20901. Gray Container Waste Evaluations; Section 20901.1. Gray Container Waste Evaluations– Frequency; Section 20901.2. Gray Container Waste Evaluations - Measuring Remnant Organic Material.</p> <p><b>Please clarify if</b>, as here in Sonoma County, a regional agency has historically been the reporting entity for all 10 jurisdictions in the county does this mean that the requirement to “conduct waste evaluations on the gray container collection stream received directly from each jurisdiction collection service...” could be satisfied by sampling for the combined regional agency or will the sampling need to be performed for each of the 10 separate jurisdictions? If the latter is the case, please consider revising the language to allow for combined sampling for the regional reporting entity.</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>
4498	White, C., Manatt, Phelps & Phelps, LLC	<p>Definition of Lifecycle Emissions</p> <p>The definition of Lifecycle Emissions should include a provision to incorporate the GHG benefits related to renewable energy. The proposed added language below is</p>	<p>In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to “lifecycle GHG emissions” for the specific technology or process submitted under Section 18983.2. Staff added a definition for “Project Baseline” to section 18982</p>

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		<p>necessary to ensure that both GHG emissions and emission reductions are included in the assessment of overall lifecycle emissions. The suggested language is highlighted below:</p> <p>“Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” means the aggregate quantity of greenhouse gas emissions (including direct emissions, <del>and</del> significant indirect emissions, <b>and emission reductions</b>), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a diversion location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. <b>The GHG emission reductions from low carbon energy generation, fuel production, or chemicals produced by the process or technology should also be considered.</b> The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential.</p>	<p>(a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2. “GHG benefits” and “production or use offsets” are different ways of framing GHG emissions reductions. Since these are included in the project baseline emissions, they are therefore included in the GHG emissions reduction that is calculated as described above.</p>
4499	White, C., Manatt, Phelps & Phelps, LLC	<p>Use of the word “disposal” and phrase “landfill disposal” in the proposed regulations.</p> <p>As we commented in our previous letter of February 27, 2019, we are concerned about the use of the word “disposal” and the phrase “landfill disposal”. As you know, “disposal” within the general meaning of the Public Resources Code and Title 14 and Title 27 regulations broadly include landfill disposal as well as other types of disposal, including transformation. The term “landfill disposal”, on the other hand, within the meaning of these proposed SB 1383 regulations only includes landfill disposal, not transformation. It is most important to recognize this distinction when using these terms.</p> <p>For example, the following newly proposed language appears on lines 25 to 35 on page 5 (part of definition 14.5):</p> <p>25 (B) The facility is a “Composting operation” or “composting facility” as  26 defined in Section 18815.2(a)(13) of this division that has less than 10  27 percent organic waste contained in materials sent to <b>disposal</b> as reported  28 pursuant to Section 18815.7 of this division and complies with the digestate  29 handling requirements specified in Section 17896.57 of this division if  30 applicable.</p> <p>31 1. If the Compostable Material Handling Operation or Facility has more  32 than 10 percent organic waste contained in the materials sent to <b>disposal</b>  33 for two (2) consecutive reporting periods, or three (3) reporting periods  34 within three (3) years, the facility shall not qualify as a “Designated  35 Source Separated Organic Waste Facility.”</p> <p>The first use of the term “<b>disposal</b>” on line 27 is appropriate as it pertains to the requirements of existing regulations in Title 14. However, the use of the term “<b>disposal</b>” on line 32 does not appear to be appropriate as it refers to new requirements for the diversion of organics from landfills pursuant to these SB 1383</p>	<p>Comment noted. CalRecycle does not believe a change is necessary as the term disposal as used in the scoping section clearly refers to landfill disposal. The term disposal and landfill disposal are frequently used interchangeably. In fact, the section of the Health and Safety Code codified by SB 1383 commenter does just that:</p> <p>Health and Safety Code Section 39730.6.</p> <p>(a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics:</p> <p>(1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020.</p> <p>(2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025.</p> <p>(b) Except as provided in this section and Section 42652.5 of the Public Resources Code, 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.” (emphasis added).</p> <p>As noted in the Initial Statement of Reasons, there is no existing definition of landfill disposal, or organic waste disposal in the Health and Safety code. As a result, Article 2 of the regulations specifically identifies activities that constitute landfill disposal of organic waste for the purposes of the regulations. The regulations also identify activities that constitute a reduction of landfill disposal of organic waste. Activities that constitute landfill disposal were identified in the regulations in consultation with CARB, as required by statute.</p> <p>However in response to comments on this item CalRecycle staff conducted a thorough review to ensure the term disposal and landfill disposal were used properly and consistent with the statutory intent throughout the regulation.</p>

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		<p>regulations. For example, we hope the Nowon process product will be counted as diversion from landfill disposal, but, when used as a low carbon fuel in an industrial furnace it will still be regulated as form of disposal under the EMSW. The use of the term <b>“disposal”</b> in line 32 would appear to disqualify the Nowon product even though it may be produced at what would otherwise considered to be a “Designated Source Separated Organic Waste Facility for use as an organic fuel at an industrial furnace (e.g., EMSW “transformation”). <b>Thus, we request that the term “disposal” in line 32 on page 5 be changed to “landfill disposal”.</b></p> <p>A similar problem occurs in newly proposed language on lines 37 to 41 on page 12. The term “disposal” on line 40 would only apply to situations involve “landfill disposal” – not other forms of disposal such as transformation. <b>We request that “disposal” be changed to “landfill disposal” on line 40.</b></p> <p>37 (B) If as a part of the approval process pursuant to Section 20690 or 20700 38 of Title 27 Division 2, the operator demonstrates that approved material 39 recovery fines that will be used for cover material <b>do not include organic 40 waste</b>, the use of material recovery fines shall not constitute <b>disposal</b> of 41 organic waste.</p> <p>The word “disposal” or the term “landfill disposal” appears in the proposed regulation text (including existing language) a total of 165 times. <b>We strongly recommend and request that CalRecycle conduct a thorough review of the proposed regulations to ensure you are properly using the word “disposal” (usually meaning all forms of disposal, including transformation) and the phrase “land disposal” (which clearly refers to only landfill disposal to be regulated pursuant to the proposed SB 1383 regulations.</b></p>	
4500	White, C., Manatt, Phelps & Phelps, LLC	<p>What does “do not include organic waste” mean?</p> <p>Another problem exists in the above paragraph (See comment 4499) with the above newly proposed language by the use of the phrase <b>“do not include organic waste”</b>. This language appears to imply that any amount of organic waste in the material recovery fines disqualifies the entire mass of material recovery fines from use as cover material. The Nowon process can remove most of the organic material from unprocessed MRF fines – leaving a processed MRF fine residue that is largely, but not completely, free of organics. In reality, only the fraction of residual fines that are organic should count as organic waste landfill disposal when those fines are used as an approved landfill cover. For example, consider 200 tons of a hypothetical MRF residual that contains 50% organics and 50% non-organic materials. The Nowon technology processes these 200 tons of organic-containing MRF fines to remove 100 tons of the mostly organic fraction for use as a low carbon fuel or other allowed purpose, thereby leaving 100 tons of “final” residual of which less than 5% is organic. If this 100 tons of Nowon processed “final” residual material recovery fines are used for landfill cover, but only 5%, or 5 tons, of that is organic, then only the 5 tons of organic matter should count as landfill disposal of organic waste under the SB 1383 regulations – not the whole 100 ton mass. The remaining 95 tons of non-</p>	<p>Comment noted. CalRecycle does not believe a change is necessary as the term disposal as used in the scoping section clearly refers to landfill disposal. The term disposal and landfill disposal are frequently used interchangeably. In fact, the section of the Health and Safety Code codified by SB 1383 commenter does just that:</p> <p>Health and Safety Code Section 39730.6.</p> <p>(a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics:</p> <p>(1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020.</p> <p>(2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025.</p> <p>(b) Except as provided in this section and Section 42652.5 of the Public Resources Code, 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.” (emphasis added).</p> <p>As noted in the Initial Statement of Reasons, there is no existing definition of landfill disposal, or organic waste disposal in the Health and Safety code. As a result, Article 2 of the regulations specifically identifies activities that constitute landfill disposal of organic waste for the purposes of</p>



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		<p>organic residual should still be allowed for use as cover and not count as landfill disposal. We recommend the above newly proposed language be modified as follows:</p> <p>(B) If as a part of the approval process pursuant to Section 20690 or 2 0700 of Title 27 Division 2, the operator demonstrates that if approved material recovery fines <del>that will be</del> <b>are</b> used for cover material <b>then any portion of organic material in the material recovery fines shall constitute disposal of organic waste, but the fraction of the material recovery fines that are not organic material do not include organic waste, the use of material recovery fines shall not constitute disposal of organic waste as documented by periodic monitoring approved by the Local Enforcement Agency.</b></p> <p>This language would still allow the non-organic fraction of the material recovery fines to be used as cover and counted as diversion from landfill disposal – provided that the remaining di minimis organic fraction is still considered disposal. Periodic monitoring as approved by the LEA provides simplicity and flexibility in recognition of local conditions.</p>	<p>the regulations. The regulations also identify activities that constitute a reduction of landfill disposal of organic waste. Activities that constitute landfill disposal were identified in the regulations in consultation with CARB, as required by statute.</p> <p>However in response to comments on this item CalRecycle staff conducted a thorough review to ensure the term disposal and landfill disposal were used properly and consistent with the statutory intent throughout the regulation.</p>
4501	White, C., Manatt, Phelps & Phelps, LLC	<p>0.30 MTCO<sub>2</sub>e/ton Standard for Determining Landfill Disposal Reduction</p> <p>Nowon understands and supports the 0.30 MTCO<sub>2</sub>e/ton standard for determining if a technology meets the requirement for determining a reduction in landfill disposal of organic waste. Nowon also understands that this standard is based on the reduction of GHG emissions associated with the composting of organic waste as stated in Section 18983.2 (a)(3) below. However, we also understand that the 0.30 Standard does not include some indirect GHG emissions associated with composting operations. For example, we understand that GHG emissions associated with the transport of organic waste to composting facilities and the transport of compost to the final use of the compost product is not included in the calculation of the 0.30 standard. There may be other similar exclusions from calculating the 0.30 standard of which we are not aware.</p> <p>Thus, we believe it is appropriate to exclude similar emissions associated with other technologies. For example, the Nowon process may require the transport of MRF residuals to a location where the Nowon process is operating to produce a low-carbon fuel. Similarly, the resultant low carbon fuel must be typically transported to the industrial furnace or where it will be ultimately utilized to reduce GHG emission of an industrial process. These transportation emissions associated with the production and use of the Nowon product should not be counted as emissions to determine compliance with the 0.30 standard. We believe that the transportation related GHG emissions associated with the transport of the Nowon product is similar and no different than the GHG emissions associated with the transport of compost materials – and should be treated similarly. Any other emissions similar to those excluded from the composting emission calculation should also be excluded from the alternative technology approval process.</p> <p>Here is the currently proposed language of Section 18983.2 (a)(3):</p>	<p>Staff used the methodology described in guidance doc referenced in the FSOR to derive the 0.30 MMTCO<sub>2</sub>e/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 MTCO<sub>2</sub>e threshold and therefore must be considered in the GHG emissions reduction and the lifecycle GHG emissions calculations.</p>

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		<p>36 (3) To determine if the proposed operation counts as a permanent reduction in landfill  37 disposal, the Department and/or <b>in consultation with</b> CARB’s Executive Office shall  38 compare the <b>permanent lifecycle GHG emissions reduction of</b> metric tons of  39 carbon dioxide equivalent (MTCO2e) per short ton organic waste reduced by the  40 process or technology, with the emissions reduction from composting organic waste  41 (0.30 MTCO2e/short ton organic waste).The Department shall only deem a proposed  42 operation to constitute a reduction in landfill disposal if the process or technology has  43 <b>results in a permanent reduction in lifecycle</b> greenhouse gas emissions reductions  44 equal to or greater than the 0.30 MTCO2e/short ton of mixed organic waste.</p> <p>We recommend that the following sentence, or something similar, be added to the end of paragraph (3) starting on new line 45:  <b>45 However, in determining emissions from the proposed operation, GHG emissions</b>  <b>46 for activities that are similar to those activities for which GHG emissions were</b>  <b>47 excluded in the determination of the 0.30 standard shall not be required to be</b>  <b>48 calculated for the proposed operation, for example, such as transportation GHG</b>  <b>49 emissions.</b></p> <p>This added language will ensure that proposed operations are evaluated in a fashion that is consistent with composting operations.</p>	
4502	White, C., Manatt, Phelps & Phelps, LLC	Differentiated by type We appreciate your clarification of the “types” of solid waste that require differentiation in the feedstock that will be processed. The language on lines 35 – 38 on page 14 are helpful in defining the categories of organic waste that must be identified as feedstock to the Nowon process.	CalRecycle thanks you for your support for staff’s 15-day changes to the proposed regulation.
4523	White, M., Edgar & Associates	Definitions (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 <del>green</del> gray container may be a different color.	Thank you for the comment. CalRecycle has revised Section 18982(a)(28) to say ‘gray’ instead of ‘green.’
4524	White, M., Edgar & Associates	Article 2. Landfill Disposal and Reductions in Landfill Disposal The goal of SB 1383 is to significantly reduce GHG emissions associated with landfill disposal, where any amount of organic waste in cover materials will result in fugitive GHG emissions. Even if the material is captured under a gas collection system, the effectiveness of those systems is limited. I strongly suggest you maintain a policy that would require apportioning the appropriate percentage of organic material in fines as disposal to continue to deter the use of organics in cover. (Example, 100	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

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		tons of material is used as cover. It is 10% organic material and therefore 10 tons would be counted as disposal of organic material).	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.
4525	White, M., Edgar & Associates	<p>Edible Food Recovery Programs</p> <p>I understand that CalRecycle has defined Tier one and Tier two commercial generators to target readily available edible food and companies that are most likely currently participating in edible food recovery programs. However, the long-term performance of capturing edible food could be impacted by limiting these Tiers. There will be a flux of infrastructure for managing the material, and then as these businesses get more efficient at source reduction programs, actual pounds collected for edible food recovery will decrease. There are several potential options CalRecycle can consider to ensure the 20% recovery mandate is met.</p> <p>1. Ensure that edible food recovery outreach/education materials is provided to all potential edible food generators, regardless if they are in the Tier categories. (As currently written the language in the outreach and education section is not clear if edible food recover outreach is only required for generators in Tiers, or for all potential donors.) This will encourage voluntary donation and early action and help jurisdictions more accurately plan capacity.</p>	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. Food facilities, food service establishments, and any other food businesses that are not a tier one or a tier two commercial edible food generator 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, jurisdictions are not required to provide education and outreach to all food facilities or food businesses. However, if a jurisdiction would like to provide education and outreach to all food facilities or businesses in addition to commercial edible food generators, then they may do so.
4526	White, M., Edgar & Associates	Create a trigger in 2025, where if it is shown that the State is below their 20% edible food recovery goal "Tier three" or otherwise expanded mandatory programs will be added to the requirements.	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. Food facilities and food service establishments that are not a tier one or tier two commercial edible food generator are exempt from SB 1383's regulations because they typically have smaller amounts of edible food that would otherwise be disposed available for food recovery. As a result, a trigger was not be added to the regulations. However, CalRecycle does have the authority to reevaluate SB 1383's edible food recovery regulations should the state fail to achieve the goal of recovering 20% of currently disposed edible food for human consumption by 2025.
4527	White, M., Edgar & Associates	Additionally, through CalRecycle's education programs planned for after the regulations have been adopted it will be important to reinforce that the jurisdictions should get a list of all agencies that participate in edible food recovery or donation, regardless if they can collect from generators. This list can serve as a starting point to get these groups working collaboratively and for jurisdictions to begin to identify if there are infrastructure gaps. Further, in more affluent jurisdictions that don't have a need within their communities, infrastructure for collection remains important where food can be send to jurisdictions that have a need.	It is at the discretion of each jurisdiction to determine what food recovery organizations and services should be included on the list. To clarify, the list is intended to serve as a tool to help commercial edible food generators find appropriate food recovery organizations and food recovery 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. 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 and effectively recovering edible food on a routine basis.
4528	White, M., Edgar & Associates	CalRecycle can also play a role in educating generators that the recordkeeping requirements can be satisfied through the edible food recovery agency that can track the needed items through their software (which will be needed for their own requirements) and provided to the generator. This will help relieve the burden on the generator and provide easier methods of passing necessary items onto the jurisdiction.	CalRecycle will provide a model food recovery agreement that can be customized and used by commercial edible food generators, food recovery organizations, and food recovery services. This model food recovery agreement includes a section where food recovery organizations can specify the records that they will provide to commercial edible food generators.

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4529	White, M., Edgar & Associates	<p>Article 12. Procurement of Recovered Organic Waste Products Current regulatory language is unclear if jurisdictions can satisfy their procurement requirements through the purchase of RINS, LCFS, REC or other ‘credits’ or ‘wheeling’ programs for renewable fuels, natural gas and electricity generated in other locations. I encourage CalRecycle to clarify this in Article 12. Notably:</p> <ol style="list-style-type: none"> <li>1. Jurisdictions that cannot generate biofuels (as an example) can still meet their procurement targets by purchasing credits, or wheeling biofuels from other locations.</li> <li>2. The language should be limited to using in-State infrastructure that produces these credits. Outof- State credits should not be used to comply with these procurement requirements.</li> <li>3. Similarly, only credits produced from the diversion of organic waste from landfills can be used to satisfy the procurement requirements for a jurisdiction.</li> </ol>	<p>Jurisdictions are not limited to their own generation of renewable gas to satisfy the procurement requirements. A jurisdiction may purchase from any entity provided the end products meet the Section 18982(a)(60) definition of “recovered organic waste products”. The draft regulations do not exclude the purchase of credits as long as the feedstock for the renewable energy represented by the credits meets the above-referenced definition. Similarly, the draft regulations do not limit the procurement requirement to “in-state infrastructure” as long as the end products meet the above-referenced definition. Given the definition requires the feedstock be from California, landfill-diverted organic waste, it is likely that any credits purchased will be from in-state infrastructure.</p>
4530	White, M., Edgar & Associates	<p>Gray Container Waste Evaluation We are happy to see CalRecycle has included provisions to evaluate organics that remain in the gray container. It would be ideal if there was some trigger if a jurisdiction is unable to adequately capture organics through its existing programs. If a jurisdiction is unable to get their organic material in the gray container below 25% starting in 2025, CalRecycle could:</p> <ul style="list-style-type: none"> <li>- Require the jurisdiction to include a specific action plan in their annual report for how they will capture organics more effectively which could include, greater outreach, enforcement, route audits, processing technology, additional waste auditing, route reviews, cart tagging, etc.</li> <li>- Require the jurisdiction to rescind waivers that have been provided to generators.</li> <li>- Require expanded edible food programs to potential donors.</li> </ul>	<p>Comment noted. Jurisdictions are required to conduct specific education and outreach requirements as a trigger if they exceed the threshold. Additionally, jurisdictions may lose their eligibility to implement a performance-based source separated organic waste collection service if they exceed the threshold. CalRecycle does not believe additional triggers are appropriate at this time.</p>
4534	White, M., Edgar & Associates	<p>Article 17: Performance Based Source-Separated Organic Waste Collection Service We fully support the outlined Performance Based Source-Separation Organic Waste Collection Service. Jurisdictions will be motivated to prove the performance of their technology and collection programs through this new regulation. <b>CalRecycle should clarify that for jurisdictions that either place food waste in the gray container, or otherwise plan to process the gray container, that the 25% organics limit is evaluated post-processing (effectively what is sent to landfill.) As currently written it is unclear how the 25% limit would be evaluated if jurisdictions process the gray container for organics, as allowed under Section 18984.1.</b></p>	<p>Comment noted. The gray container waste evaluations are not only indicative of the amount of organic waste that continues to be disposed in jurisdictions that are implementing a performance-based source separated organic waste collection service, which is an important metric for ensuring the state achieves the statewide targets. The requirements also reflect that jurisdictions implementing these services are not required to comply with enforcement and education and outreach requirements included in other portions of the chapter. The gray container waste evaluations are a way of demonstrating performance that is equivalent to or greater than the minimum requirements jurisdictions would otherwise be subject to. Further, after material is recovered from a gray container waste stream, it cannot be accurately associated with the jurisdiction of origin, and even if it could, such a measurement would be used to quantify a jurisdiction-specific diversion target. As noted in several comments, jurisdiction-specific diversion requirements are precluded by statute. See response to General Comment 62, also see Specific Purpose and Necessity as presented in the ISOR and FSOR for Article 2 and Article 3. The waste composition evaluations for the gray container are performed prior to processing. Post processing evaluation does not provide an indication of contamination. Instead, it provides an indication of recovery, which is not the</p>

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			requirement of the section. A jurisdiction that requires generators to place organic waste in the gray container must meet its container contamination monitoring requirements through performing route reviews.
6242	Willmore, D., City of Rancho Palos Verdes	The City has concerns about the financial impact of SB1383, when adopted. In particular, the City is concerned about the costs associated with the required monitoring, recordkeeping, compliance, waste sampling, and administrative civil penalties for violations. These, at a minimum, will require staff training and regular monitoring of containers, which will further burden the City's finances. The City respectfully requests CalRecycle to consider the many valuable points identified and mentioned by LASAN and other local jurisdictions, and consider the pending heavy financial impact that would be imposed on small and larger cities.	CalRecycle acknowledges that implementation of the proposed regulations will involve costs to jurisdictions. 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)).
3110	Zaldivar, E., LA Sanitation and Environment	Article 1. Definitions. Section 18982 (a)(39.5) "'Lifecycle greenhouse gas emissions' or 'Lifecycle GHG emissions' means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution. including collection from a diversion location. waste processing. delivery. use of any finished material by the ultimate consumer. ultimate use of any processing materials. The mass values for all greenhouse gases shall be adjusted to account for their relative global warmingpotential. " <b>LASAN requests that CalRecycle define or state the threshold for "significant indirect emissions."</b> Additionally, please clarify or specify in the definition that greenhouse gas emissions reductions/benefits from use of finished material are also included in the calculation rather than the current definition which only specifically states emissions.	In response to the comment, the section 18982, subdivision (a)(39.5) definition of "Lifecycle greenhouse gas emissions" or "Lifecycle GHG emissions" has been modified to remove the word "significant" immediately preceding "indirect emissions." In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to "lifecycle GHG emissions" for the specific technology or process submitted under Section 18983.2. Staff added a definition for "Project baseline" to section 18982 (a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2.
3111	Zaldivar, E., LA Sanitation and Environment	Article 2. Landfill Disposal and Reductions in Landfill Disposal. Section 18983.2 (a)(3) "To determine ifthe proposed operation counts as a permanent reduction in landfill disposal. the Department <del>and/or</del> <b>in consultation with</b> CARB's Executive Office shall compare the <b>permanent lifecycle GHG emissions reduction</b> of metric tons of carbon dioxide equivalent (MI'CO2e) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste (0.30 MI'CO2e/short ton organic waste).The Department shall only deem a proposed operation to constitute a reduction in landfill disposal if the process or technology <del>has results in a permanent reduction in lifecycle greenhouse gas emissions</del> reductions equal to or greater than the 0.30 MI'CO2e/short ton of <del>mixed</del> organic waste. " CARB's "Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities" published May 2017 uses a life-cycle method that quantifies "greenhouse gas emissions reductions from using compost as well as the greenhouse gas emissions associated with compost management."	These comments are outside the scope of 15-day changes to the proposed regulations and therefore do not require a response. However, staff notes that these comments address identical issues raised in 45-day comments and are responded to in the section of the FSOR responding to 45-day comments. 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. In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to "lifecycle GHG emissions" for the specific technology or process submitted under Section 18983.2. Staff added a definition for "Project baseline" to section 18982 (a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2.

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		<p>Per CARB's analysis (Page 23, Table 14) neither composting of pure yard trimmings nor composting of mixed organics meets the threshold of 0.30 MTCO<sub>2</sub>e/ton reduced emissions based on current regulation definitions (i.e. not including emission reductions from end use).</p> <p>Per CARB a ton a ton of mixed organics releases 0.33 MTCO<sub>2</sub>e/ton when sent to landfill while 0.07 MTCO<sub>2</sub>e/ton emissions are released by the compost processing and handling. This would result in only a 0.26 MTCO<sub>2</sub>e/ton reduction based only on emissions and not including decreased fertilizer use and soil erosion benefits.</p> <p>LASAN requests CalRecycle provide clarification on the calculation methods used to acquire 0.30 MTCO<sub>2</sub>e/ton reductions for mixed organics and to clarify or include greenhouse gas emissions reductions/benefits from use of finished material in the definition as mentioned in the previous comment above.</p>	
3112	Zaldivar, E., LA Sanitation and Environment	<p>Article 1: Definitions; Section 18982.(a)(14.5) "'Designated Source-Separated Organic Waste Facility' means a solid waste facility that accepts source separated organic waste collection stream as defined in section 17402(a)(18.6) and complies with one of the following:</p> <p>(A) The facility is a 'transfer/processor' as defined in Section 18815.2(a)(62). that is in compliance with the reporting requirements of Section 18815.5(e) of this division. and meets or exceeds an annual average source separated organic content recovery rate of 50 percent between January 1, 2022 and December 31st 2024 or 75 percent on and after January 1, 2025 as calculated pursuant to Section 18815(e) of this division for organic waste received from source separated organic waste collection stream. (1) if a transfer/processor has an annual average source separated organic content recovery rate lower than the rate required in Paragraph (A) of this section for two (2) consecutive reporting periods. or three (3) reporting periods within three (3) years, the facility shall not qualify as a 'Designated Source Separated Organic Waste Facility'."</p> <p>Processing facilities typically take multiple types of waste streams and process these waste streams in various processing lines. The draft regulations specify organics recovery efficiency calculations for source-separated organics waste stream and mixed waste organic stream separately. If a facility processes both source-separated organics waste stream and mixed waste organics waste stream and has different organics recovery efficiency rates for each waste stream, does the classification of "Designated Source Separate Organic Waste Facility" only take into account the organics recovery efficiency of the source separated organics waste stream processing line or does the classification also take into account all the other organics recovery efficiency rates of other waste stream processing lines in the facility (overall facility organics recovery rate)?</p> <p>An overall facility recovery rate is not indicative of a specific processing line and input feedstock. A facility may have a very effective organics processing line, but also have a mixed waste line and/or a commingled recyclables line that does not recover the required 50 percent(%) or 75 percent(%) threshold. A facility's</p>	<p>Comment noted. CalRecycle agrees with the premise of the comment that facilities should not have an overall facility rate and the recovery rate should be specific to the type or organic waste collection stream handled. Notably, the definition of a designated source separate organic waste facility includes:</p> <p>"a "transfer/processor," as defined in Section 18815.2(a)(62), that is in compliance with the reporting requirements of Section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to Section 18815.5(f) for organic waste received from the source separated organic waste collection stream." (emphasis added).</p> <p>Per section 17409.5.5, recovery from the source separated organic waste collection stream is conducted separately, and per 17409.5.6 organic waste must be kept separate from other solid waste streams. CalRecycle will provide guidance as the regulations are implemented.</p>

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		<p>combined recovery rate can be under the required threshold, even if the organics recovery portion recovers greater than the threshold amounts.            Instead of a "facility" recovery rate, the draft regulations may instead refer to "processing line" or specific commodity recovery rate thresholds. Additionally, LASAN would suggest CalRecycle provide clarification and example calculations or resources in determining these calculations and analysis of facilities with multiple operations.</p>	
3113	Zaldivar, E., LA Sanitation and Environment	<p>Article 3. Organic Waste Collection Services. Section 18984.1 (a)(1)(A) "Compostable plastics may be placed in the green container if the material meets the ASTM D6400 standard for compostability and the contents of the green containers are transported to Compostable Material Handling Operations or Facilities or In-vessel Digestion Operations or Facilities that have provided written notification to the jurisdiction that the facility can process and recover that material. The written notification shall have been provided within the last 12 months."            LASAN appreciates the addition for facilities to designate whether they allow "compostable" plastics to be included in their collection and processing programs. Based on discussions with commercial composting facilities, and tests overseen by LASAN staff, "compostable" plastic does not break down at the same rate as organic material, and therefore is usually not allowed or is discarded by said facilities. The ASTM standard must be re-evaluated/reconsidered and based on real-life versus laboratory settings.            Compostable plastics are equally problematic in commingled recyclable bins, as consumers do not understand the difference between compostable and non-compostable plastic. CalRecycle, if after studying the degradability of such materials to be viable, should require "compostable" plastics to be more readily identifiable by means of prominently-placed stripes or other symbols, for consumer education. Regulations for compostable plastics have lagged behind industry developments, to the detriment of collection programs. State wide support on consumer education would be equally critical for both organics and recyclables bin programs.</p>	<p>The commenter is not requesting a change that is within the purview of these regulations. CalRecycle will provide support for consumer education.</p>
3114	Zaldivar, E., LA Sanitation and Environment	<p>c) Article 3. Organic Waste Collection Services. Section 18984.1 (a)(6) "A jurisdiction may require additional segregation of source separated organic waste by providing <del>multiple additional source separated organic waste</del> containers or additional sections of split containers in addition to the green container <b>and blue container.</b>  <b>The following types of additional containers can be provided pursuant to this paragraph.</b> (A) This may include, in addition to a green container for yard waste and green waste, yellow <del>A brown</del> container, or <b>a brown section of a split container that is limited to the collection of</b> <del>for</del> separated food waste."            LASAN currently utilizes brown bins for collection of horse manure. Because bin standardization has been delayed until 2036, CalRecycle should allow jurisdictions to designate their own color for food waste only collection containers.</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>

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3115	Zaldivar, E., LA Sanitation and Environment	<p>d) Article 3. Organic Waste Collection Services. Section 18984.1 (d) "A iurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that the allowance of the use bags does not inhibit the ability ofthe iurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organicwaste for the iurisdiction provide written notice to the iurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste. The written notification shall have been provided within the last 12 months. "</p> <p>If a facility has provided a written notification that they will accept and remove plastic bags in the collection system, are they required to re-issue the written notification annually if there has been no change to their acceptance of plastic bags?</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 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>
3116	Zaldivar, E., LA Sanitation and Environment	<p>Article 3. Organic Waste Collection Services. Section 18984.5 (c)(J)(C) "The waste composition studies shall include samples taken from different areas in the jurisdiction that are representative of the iurisdiction and account for no less than one half of one percent (0.5%) of the weekly tonnage collected in the jurisdiction."</p> <p>The City started its recycLA process with mandating the above requirement on its seven reyCLA service providers (RSPs) only to determine that is extremely burdensome and will not improve the accuracy of the data. The City has since revised its waste characterization requirement based on the number of commercial accounts serviced by each RSP instead. The sheer amount of waste characterizations that were needed to be conducted to fulfill this contractual requirement would be too onerous in terms of time and cost to the RSPs and the facilities, and cost would end up being transferred onto the customers.</p> <p>The new method of sampling has been demonstrated to provide statistically representative data. The number of samples currently required through the City's recycLA Program is the same as those outlined in Section 18984.5(c)(1)(D)(1) through Section 18984.5(c)(1)(D)(4).</p> <p>Furthermore, the City recommends that for any waste characterization sampling, CalRecycle should reference the existing AB 939 Uniform Waste Characterization protocol for representativeness of samples.</p>	<p>Thank you for the comment. The language in Section 18984.5 (c)(J)(c) was revised to remove the reference to the one half of one percent.</p>



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3117	Zaldivar, E., LA Sanitation and Environment	<p>Article 3. Organic Waste Collection Services. Section 18984.5 (e) "A jurisdiction is not required to comply with this section if both of the following apply: (2) Pursuant to the sampling conducted of the gray container collection stream by solid waste facilities serving the jurisdiction pursuant to Section 17409.5.7-17409.5.7.2 and Sections 20901-20901.2 demonstrates and average weight of organic waste present in gray container material of less than 25 percent."</p> <p>Jurisdictions typically send materials collected in gray containers (or in the case of the City of Los Angeles, black containers) to multiple landfills, transfer stations and processing facilities. It is expected that the samplings required of these facilities will have varying results. Can the jurisdictions calculate the average of the organic weight percentages from the studies by the different facilities and provide the final number to CalRecycle?</p>	<p>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.</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>
3118	Zaldivar, E., LA Sanitation and Environment	<p>Article 16. Administrative Civil Penalties for Violations of Requirements of This Chapter. Section 18997.3 Department Penalty Amounts. Table 1. Page 76. First Row: "Sections <b>18984.1(c)</b>,18984.2(a)(3) and 18984.31 Jurisdiction fails <b>or continues</b> to transport waste, to a facility that meets the high diversion requirements, as prescribed in these sections. "</p> <p>This sentence is phrased such that if the jurisdiction fails to transport waste to a high organics diversion facility OR if the jurisdiction CONTINUES to transport waste to a high organics diversion facility, the jurisdiction is in violation. <b>Please change the phrase to "continues to fail to transport ... "</b></p>	<p>The penalty tables in Section 18997.3, including Table 1, were deleted in favor of a minor/moderate/major penalty model modified by various factors. The language revision was intended to provide the Department the ability to set penalties on a case specific basis and weigh issues of equity.</p>
3119	Zaldivar, E., LA Sanitation and Environment	<p>Article 1. Definitions. Section 18982 (a)(30) "'Grocery store' means a store primarily engaged in the retail sale of canned food: dry goods: fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served including a bakery, deli, and meat and seafood departments. <del>Grocery store includes convenience stores</del>"</p> <p><b>LASAN does not agree that convenience stores should be removed from the definition of "grocery store" given that they sell produce, nonperishable, and prepared food.</b></p>	<p>In the final regulations, the definition of "grocery store" does not 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 currently disposed edible food available for food recovery as a grocery store would have. In response to the comment about adding convenience stores back to the definition of "grocery store," CalRecycle would like to note that nothing in the regulations prohibits a jurisdiction from adopting more stringent food recovery requirements.</p>
3120	Zaldivar, E., LA Sanitation and Environment	<p>i) Article 10. Jurisdiction Edible Food Recovery Programs. Food Generators. and Food Recovery. Section 18991.4 (a)(3)(D) and Section 18991.5 (a)(1)(B)</p> <p>Both of these sections specify record keeping requirements for edible food. LASAN supports the use of common metrics and notes that the current language leaves some items open to interpretation. This metric refers to edible food but doesn't take into account that food may actually be spoiled at the time of collection, during the transportation, or at the point of receipt by the food recovery organization. Therefore, some food recovery organizations may include spoiled food in their</p>	<p>A text change was not made in response to this comment because a previous draft of the regulations included the requirement that food recovery organizations and services maintain records of food they receive from commercial edible food generators, but ultimately dispose of. Comments from key stakeholders such as California Association of Food Banks strongly urged CalRecycle to remove the requirement from the regulations as it would be far too difficult and expensive for them to track. For these reasons, the requirement was removed from the regulations and was not added back in.</p> <p>The commenter also noted that the metrics used for what is included in the measurement of edible food warranted further definition. The commenter stated that in practice, food is inclusive</p>

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		<p>"edible" food reporting, while others may elect to subtract the spoiled food tonnage from their reports.</p> <p>Furthermore, while the spoiled food would be deemed "edible" upon collection (and donation), it would later be disposed in landfill or processed via composting, anaerobic digestion or other methods. Thus, there will be a discrepancy between the pounds of food donated and received, due to the "gross" weight that includes spoilage, and the "net" weight without spoilage. These record keeping requirements will not provide metrics essential to determining actual landfill diversion.</p> <p><b>It is suggested that the reporting requirements be revised to read "The quantity of edible food transported to each food recovery organization per month as well as the quantity of that edible food that is ultimately not consumed due to spoilage."</b></p> <p>Furthermore, LASAN believes that the metrics used for what is included in the measurement of the food warrants further definition. In practice, food is inclusive of packaging such as a box or a can. If this metric is not defined or clarified, each generator and food recovery organization could be making different assumptions which can lead to mismatch of measurements and inaccurate data.</p>	<p>of packaging such as a box or a can and that if this metric is not defined or clarified, each generator and food recovery organization could be making different assumptions which can lead to mismatched measurements and inaccurate data. This comment was noted, but the commenter did not make any recommendations for how to address their concern. The recordkeeping requirements for food recovery organizations and food recovery services are intended to be consistent with information that these entities already track. Requiring these entities to maintain a record of the pounds of edible food they recover minus the pounds of the packaging associated with the edible food would be overly burdensome and potentially infeasible.</p>
3121	Zaldivar, E., LA Sanitation and Environment	<p>Article 11. Organic Waste Recycling Capacity Planning. Section 18992.2 (a)(2) "Counties, in coordination with cities and regional agencies located within the county, shall: Identify existing capacity at edible food recovery organization identified in <b>18982(a)(25)(A)-(B)</b> that is available to commercial edible food generators located within the county and jurisdictions within the county."</p> <p>LASAN suggests that it is sufficient to measure the capacity only at the county level. It is not necessary to track capacity within every jurisdiction because food may be recovered in one jurisdiction and either stay in the same jurisdiction or be transported to other jurisdiction(s). The jurisdiction of origin is critical because that jurisdiction will claim the diversion credit for recovered food. Moreover, in a County such as Los Angeles, there are 88 jurisdictions and there will be overlap in reporting and difficulty in tracking what jurisdiction the generated food is coming from. There is a significant amount of overlap in jurisdictions (i.e., Hollywood and North Hollywood are part of the City of Los Angeles, but West Hollywood is its own municipality and all three are part of the County of LA).</p>	<p>The capacity planning is designed to estimate capacity that is needed, is available, and that needs to be planned for, for the county and its jurisdictions. For both overall organic waste recycling and edible food recovery infrastructure, the same type of planning approach is needed. This will entail estimating capacity both within the entire county as well as what may be available in other counties. The jurisdiction of origin is not critical for this planning exercise because diversion credit is irrelevant.</p>
3122	Zaldivar, E., LA Sanitation and Environment	<p>Article 9. Locally Adopted Standards and Policies. Section 18990.1 (c)(3) "Supersede or otherwise affect: 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>LASAN is deeply concerned about a statement made by a CalRecycle staff member at the public workshop on June 18, 2019 in Diamond Bar relating to local restrictions on biosolids use. In response to a question, CalRecycle staff indicated a local jurisdictions may choose to adopt restrictive ordinances related to the land application of biosolids if it addresses health and safety concerns. This interpretation of the draft regulations is a significant departure from what LASAN understood to be CalRecycle's intent.</p>	<p>Section 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 section 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. Meanwhile, section 18990.1 (c) clarifies that this chapter does not prohibit a jurisdiction from adopting operational zoning limits, setting facility hours, and other standards provided that the action is lawful and is consistent with section 40053 of the Public Resources Code. A revision to the regulatory text is not necessary.</p> <p>It is not CalRecycle's intent to remove reasonable health and safety standards or to uphold bans that are not based on reasonable health and safety standards. The regulatory text has been</p>

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		<p>Members of the biosolids community have been working proactively with CalRecycle for more than two years because the wastewater sector can help the state achieve the mandates of SB 1383. Wastewater treatment plants can accept significant quantities of food waste for codigestion and green waste for composting with biosolids. However, in order to ensure the viability of such a partnership, there must be assurance of markets for biosolids, biogas, and compost. Restrictive local ordinances are in direct conflict with this objective.</p> <p>LASAN produces over 266,000 tons per year of biosolids that are 100% beneficially reused through land application, composting, or deep-well injection, and has done so for more than two decades. It is imperative to LASAN that the language of SB 1383 section 18990.1 (c) (3) is revised to ensure local ordinances do not supersede the Short-lived Climate Pollutants (SLCP): Organic Waste Reduction regulations, in order to protect LASAN's beneficial reuse of local land application.</p> <p>Existing state and federal regulations adequately address health and safety concerns. The USEPA has committed significant resources to execute risk assessments, technical support documents, and comprehensive regulations which are reviewed every two years under the Clean Water Act to ensure that land application of biosolids protects public health and the environment. The State Water Resources Control Board has also expended tremendous resources in the development of a Programmatic Environmental Impact Report and a statewide General Order to ensure the safety of the land application of biosolids.</p> <p>Article 9 Section 18990.1 (c)(3) seems inconsistent with the language added to Section 18990.1 (a&amp;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. Furthermore, as stated above the language in <b>Section 18990.1 (a&amp;b) must remain as drafted.</b></p> <p>Wastewater treatment plants can utilize existing infrastructure in the form of anaerobic digesters to create biosolids that can be land applied or composted, thereby diverting them from landfills. For these efforts to continue to be viable, LASAN needs assurance of markets for the products of digestion, including both biosolids and compost. While CalRecycle took positive steps toward assuring those markets exist, LASAN requests the clarifications above to expand those options.</p>	<p>updated to reflect stakeholder feedback. Section 18990.1 (b)(1) now reads: "(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, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter."</p>
3123	Zaldivar, E., LA Sanitation and Environment	<p>Article 12. Procurement of Recovered Organic Waste Procurement Target. Section 18993.1 (f)(1)(B) "<b>A Large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this Division that compost on-site.</b>" [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]</p> <p>Digestate from an anaerobic digestion facility is often used as part of a feedstock in a composting facility or can be beneficially utilized in land application uses. A jurisdiction should be allowed to get credit for purchasing digestate that is land</p>	<p>Compost produced at a facility identified in 18993.1(f)(1) constitutes a recovered organic waste product. The facilities identified in that section are:</p> <p>"(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this division; or</p> <p>(B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that compost on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article."</p>

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		<p>applied or as feedstock for making compost. Digestate can also be utilized to make biochar; a jurisdiction should be allowed to get credit for purchasing digestate for a facility that produces biochar, which can be used to replace (and sequester) the carbon content in soil, aids in water and mineral retention in soil, and/or to increase the carbon content in compost. Jurisdictions should be allowed to get credit for digestate utilized in producing a product that is beneficially utilized.</p>	<p>Those identified facilities could use digestate as a feedstock to produce compost. However as identified in the note in the regulatory text in Section 18993.1, digestate itself is not compost and is not a recovered organic waste product. Digestate, like food waste, and green material is an organic material and it is appropriately defined as organic waste in the regulations. The note referenced above was included to clarify that items defined as organic waste in the regulations, and "recovered organic waste products" such as compost and mulch should not be confused as equivalents, and that incentivizing procurement of organic waste recycling byproducts is not the intent of the regulations.</p> <p>CalRecycle disagrees with the commenter's recommendation to allow the purchase of digestate to produce biochar due to lack of verifiable conversion factors. 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>
3124	Zaldivar, E., LA Sanitation and Environment	<p>Article 12. Procurement o(Recovered Organic Waste Procurement Target. Section 18993.1 (h) "<b>Renewable gas procured from a POTW may only count toward a jurisdiction's organic waste product procurement target, if the following apply: (1) the POTW actively receives organic waste from a permitted solid waste facility in a manner that conforms with the requirements of Section 17896.6.(a)(1)</b>"</p> <p>LASAN is looking at the potential for projects that would pre-process organic waste at a solid waste facility and then inject the processed waste into the conveyance system for conveyance to the POTW. The current requirements would only allow the receipt of material that is vehicle transported to the POTW for the finished products to count toward the recovered organic waste procurement targets. LASAN suggests that the requirements of Section 17896.6 (a)(1) for the receipt of organic waste material to the POTW to include conveyance through the sewer system.</p>	<p>The purpose of the proposed regulatory language is to be consistent with SB 1383 statute that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. This requirement allows the department to verify that these facilities are reducing the disposal of organic waste.</p>
3125	Zaldivar, E., LA Sanitation and Environment	<p>Title 14. Article 6.2. Operating Standards. Section 17409.5.1 "Organic Waste Recovery Efficiency"; Section 17409.5.2 "Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream"; Section 17409.5.3 "Measuring Organic Waste <b>in Material</b> Removed from Mixed Waste Organic Collection Stream <b>for Disposal</b>"; Section 17409.5.4 "Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream"; Section 17409.5.5 "Measuring Organic Waste <b>in Materials</b> Removed from Source Separated Organic Waste Collection Stream <b>For Disposal.</b>"</p> <p>LASAN, in trying to perform the calculations described in the draft regulatory text, have white boarded various scenarios. The draft regulatory text for the calculation of the "Organic Waste Recovery Efficiency" is at first glance difficult to find as it is located in another portion of the regulation. For clarity, the reference to Section 18815.5 should be explained as the location where the calculation for "Organic Waste Recovery Efficiency" is located.</p> <p>Additionally, example calculations or tools to perform the calculation should be provided as reference by CalRecycle for ease of reporting and analysis by both facilities and jurisdictions.</p>	<p>A change to the regulatory text is not necessary. Section 18815.5 contains the reporting requirements. The actual calculations for measuring organic waste are contained in Sections 17409.5.2, 17409.5.3, 17409.5.4 and 17409.5.5.</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> <p>In addition, CalRecycle will provide training and tools to assist in the implementation of the regulation changes.</p>

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		<p>Furthermore, the calculation methodology as currently written may not be feasible for all organic waste processing facilities. One example would be a process that slurries or liquefies inbound waste to a facility for further processing of the recovered materials. In these cases, physical characterization of the recovered and disposed portions of the waste would be difficult. CalRecycle should consider alternative calculations methods in scenarios such as this or as further processing methods and new technologies arise.</p>	
3126	Zaldivar, E., LA Sanitation and Environment	<p>b) Article 3. Organic Waste Collection Services. Section 18984.5 "Container Contamination Minimization"; (c) <b>"A jurisdiction may meet its container contamination minimization requirements by conducting waste evaluations that meet the following standards..."</b></p> <p>Title 14. Article 6.2 Operating Standards. Section 17409.5.1 "Organic Waste Recovery Efficiency" through Section 17409.5.5 "Measuring Organic Waste in <b>Materials</b> Removed from Source Separated Organic Waste Collection Stream <b>For Disposal.</b>"; Section 17409.5. 7 <b>"Gray Container Waste Evaluations."</b></p> <p>Title 27. Article 4. CalRecycle — Controls. Section 20901 <b>"Gray Container Waste Evaluations."</b></p> <p>The sampling methodologies for the sections listed above are not consistent. For example, the frequency of sampling ranges from 10 consecutive days to quarterly to indeterminate "reporting period."</p> <p>The City of Los Angeles developed "Waste Composition Study Guidelines" for waste haulers and facilities. These guidelines are consistent with the CalRecycle's Uniform Disposal Waste Characterization Method. The City is currently finalizing the development of a diversion calculation tool that can be utilized by facilities to calculate recovery efficiency by processing lines (i.e. such as commingled recyclable streams, mixed waste streams, and organic waste streams) on a materials level (i.e. paper recovery efficiency, plastic recovery efficiency, food waste recovery efficiency, etc.) The City is happy to share this diversion calculation tool with CalRecycle for consideration in calculation of organics waste recovery efficiency.</p>	<p>The methodologies are consistent. "Reporting period" is as defined in the RDRS regulations (14 CCR 18815.1 et seq.). "Quarterly" was deleted from the proposed regulations. The 10 consecutive days for sampling applies to each reporting period.</p>
3127	Zaldivar, E., LA Sanitation and Environment	<p>Title 14. <b>Article 3. Operating Standards for In-Vessel Digestion Operations and Facilities.</b> Section 17896.44.1 "Measuring Organic Waste in Residuals"</p> <p>The by-product of in-vessel digestion operations such as anaerobic digestion is digestate. By "residuals" does CalRecycle mean digestate? If so, the waste characterization methodology described in this section cannot be performed physically. To determine the organic and inorganic material in digestate manner it would require sending the samples to a laboratory for analysis.</p> <p>Digester feedstock is often pre-processed prior to being fed into the digesters. This preprocessing line is often located in the same facility as the digesters. In this preprocessing line, inorganic, non-digestible materials are removed from the feedstock prior to being fed to the digesters. Are these removed materials what CalRecycle meant by "residuals?" If so, then the sampling study described in this section can be applied. However, the draft text would need to be revised for clarification.</p>	<p>CalRecycle has revised the in-vessel digestion requirements to replace the term "residual" with "material sent to disposal" and "incompatible material" to "material that is not organic waste." This change is necessary to differentiate between organic and non-organic material since incompatible material can contain both.</p> <p>In addition, Section 17896.44.1 (16)(d) allows operators to apply for an alternative sampling protocol which is approved by the EA with department concurrence. This alternative method may include a reduced sampling frequency if the operator can demonstrate that the data will be as accurate as the prescribed protocol with less sampling days.</p>

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3128	Zaldivar, E., LA Sanitation and Environment	<p>Title 14. Article 5.0. Composting Operation and Facility Siting and Design Standards. Section 17867 (a)(16)(B)(5) "Determine the total weight of organic waste <del>removed after processing</del> that is sent <del>for to</del> disposal by multiplying the ratio determined pursuant to subdivision (a)(16)(B)4 by the total weight of the <del>residuals</del> materials <del>removed from the source-separated organic waste collection stream after processing</del> sent to disposal."</p> <p>There are going to be "organic" feedstock materials that are sent to disposal that should not be in compost. Certain organics, such as specific plants (e.g. bamboo, palm fronds, poisonous plants, etc.) and other materials (dead animals), do not compost well or should not be in compost. These materials should not count against the recovery rate of a composting facility. These materials should be removed to improve the quality of the compost product. This is only partially addressed by Section (F), which addresses "textiles, carpet, hazardous wood waste, non-compostable paper, human or pet waste, and material subject to quarantine on movement issued by a county agricultural commissioner."</p>	<p>Although the materials described (bamboo, palm, etc.) are not ideal for composting, there may be other methods for that material to be recovered (described in Section 18983.1), unlike the materials described in Subsection (F), which have specific handling/disposal requirements (treated wood waste, quarantine, etc.).</p>
3129	Zaldivar, E., LA Sanitation and Environment	<p>Title 14. Article 6.2 Operating Standards: Section 17409.5.7.2 <b>"Gray Container Evaluations -Measuring Remnant Organic Material. (a) The operator of an attended transfer/processing facility or operation shall comply with sections 17409.5.7 and 17409. 5.7.1 by using the following measurement protocol: (3) Then determine the ratio of remnant organic material in the sample by dividing the total weight of the sampled weighed in subdivision (a)(2) by 200 pounds."</b></p> <p>The total sample weight must be AT LEAST 200 pounds. If the total weight is MORE than 200 pounds, you should not divide by 200 pounds; you need to divide by the total weight of the sample. <b>Please revise the end of 17409.5.7.2 (a)(3) to read "by the total weight of the sample as identified in section 17409.5.7.2 (a)(1)". Additionally, please clarify that definition of "remnant" whether to include all SB 1383 targeted organics or only the remnant of what was targeted for processing.</b></p>	<p>CalRecycle has revised the section accordingly.</p> <p>Regarding the term "remnant": A change to the regulatory text is not necessary. Remnant organic material is defined in Section 17402(a)(23.5) and is the organic waste collected in the gray container, as part of a three-container organic waste collection system.</p>
8091	Zanobini,Chris Plant California Alliance	<p><b>While reviewing the SB 1383 Regulation we noticed an error in Article 8, Section 18989.2. The revision cross references Sections 492.6(a)(1)(C),(D) and (G) of the Model Water Efficiency Landscape Ordinance (MWELO), but we believe the correct Sections should be Sections 492.6(a)(3)(C), (D) and (G).</b></p>	<p>Thank you for the comment. CalRecycle has revised Section 18989.2(a) to correct the citation. The change above addresses commenters questioning that this does not refer to organics.</p>
4535	Zetz, SWANA	<p>The SWANA LTF appreciates CalRecycle staff's 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 flexibility. Our strong preference, and we think the far more effective approach to securing emissions reduction, would be for the department to adopt a performance-based approach to these regulations. Unfortunately, the proposed regulations continue to go down a very prescriptive path.</p>	<p>Comment noted. CalRecycle has implemented the least costly and burdensome requirements to achieve the required statutory targets.</p>

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4536	Zetz, SWANA	<p>Proposed Language (B) The facility is a “Composting operation” or “composting facility” as defined in Section 18815.2(a)(13) of this division that has less than 10 percent organic waste contained in materials sent to disposal as reported pursuant to Section 18815.7 of this division and complies with the digestate handling requirements specified in Section 17896.57 of this division if applicable.</p> <p>1. If the Compostable Material Handling Operation or Facility has more than 10 percent organic waste contained in the materials sent to <del>disposal</del> <b>landfill disposal</b> for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility.”</p> <p>Rationale: Concerned about the use of the word “disposal” and the phrase “landfill disposal”. In some of the proposed 15-day language changes, “disposal” within the general meaning of the Public Resources Code and Title 14 and Title 27 regulations broadly include landfill disposal, as well as other types of disposal, including transformation. The term “landfill disposal”, on the other hand, within the meaning of these proposed SB 1383 regulations only includes landfill disposal, not transformation. It is most important to recognize this distinction when using these terms throughout the proposed regulations.</p> <p>The first use of the term “disposal” on line 27 is appropriate as it pertains to the requirements of existing regulations in Title 14. However, the use of the term “disposal” on line 32 does not appear to be appropriate as it refers to new requirements for the diversion of organics from landfills pursuant to these SB 1383 regulations. SWANA understands that products produced from Article 2 technologies will be counted as a diversion from landfill disposal but, when used as a low carbon fuel in an industrial furnace it will still be regulated as a form of disposal under the EMSW. The use of the term “disposal” in line 32 would appear to disqualify a product even though it may be produced as a fuel for use in an EMSW “disposal” facility. Thus, we request that the term “disposal” in line 32 on page 5 be changed to “landfill disposal.”</p>	Comment noted. CalRecycle made a change to reflect this request.
4537	Zetz, SWANA	<p>Proposed Language (39.5) “Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions, <b>and emission reductions</b>), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a diversion location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. <b>The GHG emission reductions from low carbon energy generation, fuel production, or chemicals produced by the process or technology should be also be considered.</b> The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential. <b>However, “Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” as used in Article 2 of</b></p>	<p>In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to “lifecycle GHG emissions” for the specific technology or process submitted under Section 18983.2. Staff added a definition for “Project Baseline” to section 18982 (a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2. “GHG benefits” and “production or use offsets” are different ways of framing GHG emissions reductions. Since these are included in the project baseline emissions, they are therefore included in the GHG emissions reduction that is calculated as described above.</p> <p>Staff used the methodology described in guidance doc referenced in the FSOR to derive the 0.30 MMTCO<sub>2</sub>e/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</p>

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		<p><b>these regulations shall not include emissions associated with other operations or facilities with processes that reduce short-lived climate pollutants, as that term is used in Article 2, that are similar to or consistent with those emissions that were excluded as the basis for developing the 0.30 MTCO<sub>2</sub>e/short ton of solid waste standard.</b></p> <p>Rationale: SWANA LTF understands and supports the 0.30 MTCO<sub>2</sub>e/ton standard for determining if a technology meets the requirement for a reduction in landfill disposal of organic waste. We realize that this standard is based on the reduction of GHG emission associated with the composting of organic waste, as stated in Section 18983.2 (a)(3). However, we also understand that the 0.30 standard does not include some GHG emissions associated with composting operations. For example, the GHG emissions associated with the transport of organic waste to composting facilities and the transport of compost to the final use of the compost product would not be included in the calculation of the 0.30 standard. There may be other similar exclusions in the calculation of the 0.30 standard. Thus, we believe it is appropriate to exclude similar emissions association with other technologies. For instance, an alternative technology may also require the transport of organic waste residuals to a location where the technology is operating to produce a low-carbon product.</p> <p>Similarly, the resultant low carbon product must be transported to the end-use location. These transportation emissions associated with the production and use of the technology should not be counted as emissions to determine compliance with the 0.30 standard. Any other similar emissions to those excluded from the composting emission calculation should be similarly excluded from the alternative technology approval process.</p>	<p>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 MTCO<sub>2</sub>e threshold and therefore must be considered in the GHG emissions reduction and the lifecycle GHG emissions calculations.</p>
4538	Zetz, SWANA	<p>Proposed Language: "Jurisdiction" means a city, county, or <b>regional agency that is approved by the board pursuant to Section 40975.</b></p> <p>Rationale: We recommend that the definition of jurisdiction be harmonized with Public Resources Code Section 40195.</p>	<p>CalRecycle cannot make the suggested change because PRC Section 40971 states that regional agencies are created for the purpose of complying with Part 2 of Division 30 which pertains to integrated waste management plans. This allows CalRecycle to treat regional agencies as jurisdictions. By contrast, SB 1383 falls under Part 3 and CalRecycle cannot consider regional agencies as jurisdictions for purposes of compliance with Part 3. However, Section 18981.2 allows jurisdictions to designate a public or private entity, such as a joint powers authority, to fulfill its responsibilities under the regulations, but a jurisdiction cannot delegate its authority to impose civil penalties to a private entity and remains ultimately responsible for compliance with the regulations.</p>
4539	Zetz, SWANA	<p>Proposed Language: "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, <del>organic textiles and carpets</del>, lumber, wood, paper products, printing and writing paper, manure, <del>biosolids, digestate, and sludges</del> <b>"Organic waste does not include plastic products"</b> (or as alternative we can say <b>"Organic waste exclude fossil-derived materials"</b>).</p> <p>Rationale: SWANA LTF believes the proposed regulations advance a definition that is both impractical and inconsistent with existing definitions of the same term. As</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>



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		<p>stated during the pre-rulemaking workshops and comments, we strongly believe that the definition of “organic waste” should be consistent to reduce operational confusion. We do not think the definition should include items like organic textiles and carpets, biosolids, digestate, and sludges.</p> <p>In addition, some items defined as organics, such as manure, paper, food, and textiles, should not be placed all in the same container since these products will contaminate each other and make diversion nearly impossible. Although not specifically listed, dead animals (domestic and other) are classified as “organic”. Disposal of dead animals in a landfill is a common practice due to the lack of rendering capacity. Under the proposed regulations, dead animals will be required to be placed in green containers.</p> <p>Also, the definition is not used consistently throughout the proposed regulations. For example, the three-container Organic Waste Collection Services prohibits some organics in the green container (e.g. carpets and non-compostable paper are prohibited from the green container, Section 18984.1(a)(5)(A)). Gray containers received by a solid waste facility will undergo periodic evaluation for “remnant organic material” (Section 17409.5.7 (a)). The organics in the gray container will be used to evaluate a jurisdiction’s effectiveness even though some organics are not allowed in the green container. If these items are placed in the gray container, the jurisdiction will be penalized by the presence of these materials.</p> <p>At the CalRecycle’s SB 1383 workshop held in Diamond Bar on June 18, 2019, a member of audience asked if “organic waste” as defined in the 2nd Formal Draft of proposed regulations includes plastics? The response from CalRecycle staff’s response was “No.” The proposed language revises the definition of the “Organic Waste” as defined in Subsection 18982 (a) (46) to exclude “plastic products.” As an alternative to the phrase “plastic products”, we are ok with the phrase “fossil-derived materials.”</p> <p>In regard to the proposed revision to the definition of “Organic Waste,” if we go with the first alternative, then “Plastic Products” can be defined as “Plastic products means any non-hazardous and non-putrescible solid objects made of synthetic or semi-synthetic organic compounds.” (This definition can be added to Article 1, Subdivision 18982 (a), new suggested Paragraph (53.5).</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. 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. 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. The omission or inclusion of non-compostable paper was intentional and specific for each section based on the purpose of the measurement and when the measurement occurs in the waste handling process.</p> <p>Non-compostable paper is still an organic waste. Paper is organic whether it is coated in plastic or other non-compostable material. Paper additionally constitutes a significant portion of the waste stream.</p> <p>With respect to Section 18984.5(f), including non-compostable paper in this section (as an organic material that is not required to be measured as organic waste in a gray container evaluation) would encourage the continued disposal of this material, and would discourage jurisdictions and haulers from identifying recovery solutions for this material. If jurisdictions are unable to find methods to recovery non-compostable paper, they may consider options to prevent its introduction into their waste stream in the first place, rather than solely relying on collection and recovery. Including non-compostable paper in this section would encourage the continued disposal of a significant source of organic waste.</p> <p>With respect to Section 17409.5.7(c)(3), the gray container waste evaluations are not jurisdiction-specific. The evaluations will provide critical data that will inform policy making for jurisdictions and the state by providing data on organic waste that is still collected in gray containers in jurisdictions. Jurisdictions that implement a three-container organic waste collection service are required to prohibit the placement of organic waste in the gray container unless the jurisdiction specifically transports the gray container to a high diversion organic waste processing facility that recovers 75 percent of the organic content in the gray container. This data will reveal general levels of regulatory compliance, as well as inform the department on the progress toward achieving the SB 1383 targets. Excluding non-compostable paper from this measurement would distort the amount of organic waste identified as being disposed.</p> <p>With respect to Section 17867(a)(16), these measurements are performed by composting facilities evaluating the organic content of the residuals that are sent to disposal. Non-compostable paper should not be received at compost facilities and should not be included in the composting process. Non-compostable paper is allowed not to count against the measurements compost</p>

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			<p>facilities perform as doing so would penalize the facility for removing a non-compostable contaminant from the composting process.</p> <p>With respect to Section 18982(a)(55)(B), this section does not state that non-compostable paper does not need to be measured as organic waste. This section states that non-compostable paper shall be considered a prohibited container contaminant if it is included in the green container. 18982(a)(55)(B) does not state that those materials are allowed in the gray container. Allowances for the collection of organic waste in the gray container are made in the organic waste collection requirements in Article 3. The construction of 18982(a)(55)(D) specifies that paper products, which includes non-compostable paper, may be collected in the blue container. In other words, non-compostable paper should not be collected in the blue container for recovery, it should not be collected in the green container, and it should only be collected in the gray container if the jurisdiction hauls the gray container to a high diversion organic waste processing facility.</p>
4540	Zetz, SWANA	<p>Proposed Language: <del>(B) Organic wastes that are, carpet, 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.</del></p> <p>Rationale: The 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.</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. Comment noted. The omission or inclusion of non-compostable paper was intentional and specific for each section based on the purpose of the measurement and when the measurement occurs in the waste handling process.</p> <p>Non-compostable paper is still an organic waste. Paper is organic whether it is coated in plastic or other non-compostable material. Paper additionally constitutes a significant portion of the waste stream.</p> <p>With respect to Section 18984.5(f), including non-compostable paper in this section (as an organic material that is not required to be measured as organic waste in a gray container evaluation) would encourage the continued disposal of this material, and would discourage jurisdictions and haulers from identifying recovery solutions for this material. If jurisdictions are unable to find methods to recovery non-compostable paper, they may consider options to prevent its introduction into their waste stream in the first place, rather than solely relying on collection and recovery. Including non-compostable paper in this section would encourage the continued disposal of a significant source of organic waste.</p> <p>With respect to Section 17409.5.7(c)(3), the gray container waste evaluations are not jurisdiction-specific. The evaluations will provide critical data that will inform policy making for jurisdictions and the state by providing data on organic waste that is still collected in gray containers in jurisdictions. Jurisdictions that implement a three-container organic waste collection service are required to prohibit the placement of organic waste in the gray container unless the jurisdiction specifically transports the gray container to a high diversion organic waste processing facility that recovers 75 percent of the organic content in the gray container. This data will reveal general</p>

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			<p>levels of regulatory compliance, as well as inform the department on the progress toward achieving the SB 1383 targets. Excluding non-compostable paper from this measurement would distort the amount of organic waste identified as being disposed.</p> <p>With respect to Section 17867(a)(16), these measurements are performed by composting facilities evaluating the organic content of the residuals that are sent to disposal. Non-compostable paper should not be received at compost facilities and should not be included in the composting process. Non-compostable paper is allowed not to count against the measurements compost facilities perform as doing so would penalize the facility for removing a non-compostable contaminant from the composting process.</p> <p>With respect to Section 18982(a)(55)(B), this section does not state that non-compostable paper does not need to be measured as organic waste. This section states that non-compostable paper shall be considered a prohibited container contaminant if it is included in the green container. 18982(a)(55)(B) does not state that those materials are allowed in the gray container. Allowances for the collection of organic waste in the gray container are made in the organic waste collection requirements in Article 3. The construction of 18982(a)(55)(D) specifies that paper products, which includes non-compostable paper, may be collected in the blue container. In other words, non-compostable paper should be collected in the blue container for recovery, it should not be collected in the green container, and it should only be collected in the gray container if the jurisdiction hauls the gray container to a high diversion organic waste processing facility.</p>
4541	Zetz, SWANA	<p>As defined, "Self-hauler" is so broad that it could describe nearly every resident, business, government facility or other entity in California. We ask that CalRecycle consider whether this definition is even needed. If 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.</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.</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>
4542	Zetz, SWANA	<p>Page 12, Line 30, <b>Delete Paragraph (3) of the Subsection 18983.1 (a).</b></p> <p>SB 1383, Subdivision 39730.6 (a) of the H&amp;S Code, states "Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics" by 50% from the 2014 level by 2020 and 75% by 2025. However, the proposed regulations consider any disposition of organic waste not listed in Subsection 189831.1 (b) to be landfill disposal, including any thermal conversion (CTs) and any other emerging technologies.</p> <p>The proposal is inconsistent with Subdivision 39730.5 (a) of the H&amp;S Code, as well as Section 40195.1 of the PRC, which defines "solid waste landfill" as a "disposal facility that accept solid waste for landfill disposal." Therefore, we respectfully disagree with the proposed provision of Subsection 18988.1 (a) (3) which considers, any other disposition not listed in Subsection (b) of this section to be land disposal.</p>	<p>Comment noted, this comment is not directed at changes made to the second draft of regulatory text.</p>

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4543	Zetz, SWANA	Page 12 Line 30, section 18983.1 This section should not apply where the material recovery fines have first been composted or otherwise processed to reduce the organic content and to reduce its methane-producing potential.	Section 18983.1(a)(1) specifies that depositing organic waste into a landfill is considered a landfill disposal activity for the purposes of this regulation. The final deposition of waste in a landfill is expressly included as disposal in statute. Comment noted, finished compost is not organic waste. The term “otherwise processed” is vague, it is unclear what the commenter considers “otherwise processed” so CalRecycle cannot make a regulatory change.
4544	Zetz, SWANA	Section 18983.1 page 12, line 37. Proposed Language: (B) If as a part of the approval process pursuant to Section 20690 or 20700 of Title 27 Division 2, the operator demonstrates that approved material recovery fines that will be used for cover material do not include organic waste, the use of material recovery fines shall not constitute <b>landfill</b> disposal of organic waste. Rationale: The term “disposal” on line 40 would only apply to situations involving “landfill disposal” – not other forms of disposal such as transformation. We request that “disposal” be changed to “landfill disposal.”	Comment noted. CalRecycle does not believe a change is necessary as the term disposal as used in the scoping section clearly refers to landfill disposal. The term disposal and landfill disposal are frequently used interchangeably. In fact, the section of the Health and Safety Code codified by SB 1383 commenter does just that: Health and Safety Code Section 39730.6. (a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics: (1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020. (2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. (b) Except as provided in this section and Section 42652.5 of the Public Resources Code, 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.” (emphasis added). As noted in the Initial Statement of Reasons, there is no existing definition of landfill disposal, or organic waste disposal in the Health and Safety code. As a result, Article 2 of the regulations specifically identifies activities that constitute landfill disposal of organic waste for the purposes of the regulations. The regulations also identify activities that constitute a reduction of landfill disposal of organic waste. Activities that constitute landfill disposal were identified in the regulations in consultation with CARB, as required by statute. However in response to comments on this item CalRecycle staff conducted a thorough review to ensure the term disposal and landfill disposal were used properly and consistent with the statutory intent throughout the regulation.
4545	Zetz, SWANA	Section 18983.1 page 12, line 37. Proposed Language: (B) If as a part of the approval process pursuant to Section 20690 or 20700 of Title 27 Division 2, the operator demonstrates that approved material recovery fines <del>that will be</del> <b>are</b> used for cover material <b>then any portion of organic material in the material recovery fines shall constitute disposal of organic waste, but the fraction of the material recovery fines that are not organic material do not include organic waste, the use of the material recovery fines shall not constitute disposal of organic waste as documented by periodic monitoring as approved by the Local Enforcement Agency.</b> Rationale: The use of the phrase “do not include organic waste” appears to imply that any amount of organic waste in the material recovery fines disqualifies the entire mass of material recovery fines from use as cover material. There may be	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.

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		<p>many processes approved through Article 2 procedures that remove organic materials from residual wastes to allow organic waste to be used beneficially to reduced GHGs. However, there may be some small amount of residual organic materials left the in-process residuals that could be sent for disposal – or used for Alternative Daily Cover (ADC) at landfills. We would hope that a small percentage of organic residuals, say less than 5%, would not disqualify the use of the processed residuals from use as ADC. We recommend that processed residual MRF fines be allowed for use as ADC if the organic content can be shown to be less than 5% demonstrated through periodic monitoring.</p> <p>Our proposed language would still allow the non-organic fraction of the material recovery fines to be counted as diversion from landfill disposal – even if the organic fraction is still considered landfill disposal. For the safe of simplicity and local flexibility, periodic monitoring to confirm the documentation would be subject to approval by the Local Enforcement Agency.</p>	
4546	Zetz, SWANA	<p>Section 18983.2 As stated in our previous letter, 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 MTCO<sub>2</sub>e 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 MTCO<sub>2</sub>e 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 additional processes and technologies.</p>	<p>These comments are outside the scope of 15-day changes to the proposed regulations and therefore do not require a response. However, staff notes that these comments address identical issues raised in 45-day comments and are responded to in the section of the FSOR responding to 45-day comments. 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>
4547	Zetz, SWANA	<p>Section 18983.2 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.</p> <p>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</p>	<p>As noted in the comment, section 18983.2 allows for assessment of technologies and processes that might count as a reduction in landfill disposal. A change in the regulation to enact limitations on who may submit an application under section 18983.2 could impose undue restrictions on potential applicants, therefore a change that is responsive to the request included in this comment is not warranted. Staff acknowledges that end uses can vary, so it is appropriate to evaluate potential scenarios as part of the 18983.2 submittal process as suggested in the comment.</p>

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		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).	
4548	Zetz, SWANA	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 <b>greenhouse gas emission</b> reductions from the proposed recovery activity.” Based on this, the O/O of the technology would provide sufficient description of the material types as necessary to “accurately calculate” 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.	CalRecycle has revised section 18983.2(a)(1)(C) in response to a similar comment that was made during the 45-day comment period. The regulation text currently specifies the eleven categories of organic waste into which applicants differentiate organic waste associated with the proposed process or technology noted in the application. CalRecycle narrowed the categories to those that would be most useful in estimating GHG emissions and GHG emissions reductions. The organic material type “remainder/composite organic” is one of the eleven categories and it can be used to categorize organic material that does not conform to the other ten material types listed in the regulation.
4549	Zetz, SWANA	Section 18983.2 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: “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.	In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to “lifecycle GHG emissions” for the specific technology or process submitted under Section 18983.2. Staff added a definition for “Project baseline” to section 18982 (a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2. The text “Calculations must include quantification of the greenhouse gas emissions produced from the process or technology itself, including those emissions from any residual material” has been removed from the regulatory language in response to comments.
4550	Zetz, SWANA	SWANA LTF 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	In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to “lifecycle GHG emissions” for the specific technology or process submitted under Section 18983.2. Staff added a definition for “Project baseline” to section 18982

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		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.	(a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2.
4551	Zetz, SWANA	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 LTF’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.	In calculating GHG emissions reductions pursuant to section 18983.2, staff will compare project baseline GHG emissions to “lifecycle GHG emissions” for the specific technology or process submitted under Section 18983.2. Staff added a definition for “Project baseline” to section 18982 (a)(56.5), and it may include greenhouse gas emissions associated with the production and use of products replaced by a technology or process submitted under section 18983.2.
4552	Zetz, SWANA	Section 18983.2 Expand Subsection 18983.2 (a) (2) to indicate that the application is deemed approved if the Department fails to respond within 180 days after the applicant has provided the Department with all materials, as requested.	CalRecycle intends the 180-day timeline as advisory in order to guide the review process on a reasonable timeline. However, CalRecycle declines to provide a procedure where a determination regarding alternative processes or technologies that may constitute landfill disposal is made by operation of law upon the expiration of time. This section is intended to produce a decision based on an informed decision making process based on solid science and adequate agency review.
4553	Zetz, SWANA	Proposed Language: Section 18983.2 <b>New Subsection (3)(a) However, in determining emissions from the proposed operation, GHG emissions for activities that are similar to those activities for which GHG emissions were excluded in the determination of the 0.30 standard shall not be required to be calculated for the</b>	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

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		<p><b>proposed operation, for example, such as transportation GHG emissions.</b>  Rationale: We recommend adding the following sentence, or something similar, to this end of paragraph (3) to ensure that proposed operation is evaluated in a fashion that is consistent with composting operations.</p>	<p>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 MTCO<sub>2e</sub> threshold and therefore must be considered in the GHG emissions reduction and the lifecycle GHG emissions calculations.</p>
4554	Zetz, SWANA	<p>Section 18984.1 Proposed Language: (B) Hazardous wood waste shall not be collected in the <del>green blue container or gray</del> container  Rationale: (a)(5)(B) Composite-lined solid waste landfills (Class III) with Waste Discharge Requirements that specifically allow treated wood waste to be commingled with solid waste are not required to segregate the treated wood waste from solid waste. These approved landfills allow treated wood waste to be accepted as solid waste and therefore should not be prohibited from placement in the gray container. Imposing a more restrictive standard will contribute to illegal dumping. The most likely problem of contamination will be if hazardous wood waste is placed in the green container.</p>	<p>This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. DTSC has a guidance document on its webpage on the proper handling, storage, and disposal of TWW generated by businesses and residents: <a href="https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf">https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf</a>  CalRecycle will provide jurisdictions the guidance from DTSC.  For the comment about pre-1924 organic lumber, the 'organic lumber' is organic waste and will be subject to the recycling requirements in Article 3.</p>
4555	Zetz, SWANA	<p>Section 18984.5 In order to take representative samples of different areas of a jurisdiction, it will typically require taking two weeks' worth of samples every six months since some collections are bi-weekly and it takes time to collect from an entire jurisdiction. Daily samples need to be processed each day for two weeks. Stockpiling two weeks of organics would be difficult operationally and possibly result in violations.  The proposed methodology does not indicate if it applies to only the green organics carts or includes the blue and gray containers.  The term "route" used for determining the number of samples is confusing. There are daily routes for a specific truck or route areas of a community that are served by a number of trucks on a certain day of the week. The average garbage truck only has a capacity for 600 to 800 residential stops per day. Collection at commercial generator routes may be significantly less per day. Some customers are served on an on-call basis and are not part of a designated route. <b>SWANA LTF requests the term "route" be defined.</b>  The number of samples required for each range of generators does not seem proportionate. A "route" with 500 generators will need 25 samples or 5% of the generator's samples, but a route with 4001 generators only takes 40 samples or 0.9% of the generators. The ratios should be more proportionate. It is also not clear what size sample is required since later only 200-pound samples are taken of the aggregated route samples.  It is also disproportionate to take a 200-pound sample from 25 samples and a 200-pound sample of 40 samples.  The proposed regulations sampling methodology is confusing in terms of the number of samples per each range of customers and taking a 200-pound sample of each container stream. The relationship to the number of generators to sample and the size of the samples needs to be clarified.</p>	<p>Thank you for the comment. In response to this comment and other stakeholders, CalRecycle modified the sample size. 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 evaluations 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. However, what constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. The jurisdiction may determine the hauler route. CalRecycle did not specify the timeframe because what constitutes a hauler route is up to the jurisdiction to determine. It could be over a week or two weeks. The methodology was based upon is modeled from existing waste sampling requirements in practice in California and that is a week timeframe. It is not specified in the regulations because hauler routes can significantly vary between jurisdictions depending upon the types of generators, facility location of where materials will be hauled to, route efficiencies, and a myriad of other factors. For example, one jurisdiction's collection system may consist of one continuous itinerary, another jurisdiction's routes may be a series of stops that services both commercial generators and residential generators for garbage, dry recyclables and organics, or in another jurisdiction the route could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so that the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the jurisdiction's affected routes, thereby reducing contamination and increasing the recoverability of organic waste. CalRecycle disagrees that a change is necessary as jurisdictions are not required to pursue this compliance option. The methodology is modeled from existing waste sampling requirements in practice in California; however, a jurisdiction could opt to implement a service under Article 3 instead and meet its contamination monitoring requirements through the performance of route</p>



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			reviews instead of using the waste sampling methodology. Additionally, the waste composition studies are based upon the City of LA's methodology. The timeframe is over the period of a week.
4556	Zetz, SWANA	Section 18984.12 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.	Thank you for the comment. The comment is in support of the current language.
4557	Zetz, SWANA	<p>Section 18984.12 We appreciate this change that will capture some additional low population areas and jurisdictions, avoid placing disproportionate economic costs on a small portion of the state's population, and enable counties to focus on collecting organic waste from more high-density areas where the most organic waste can be recovered.</p> <p>However, we continue to recommend that there be consideration for large census tracts where the population is condensed in one area of the tract but most of the census tract is under the population density threshold. This could be done by allowing case-by-case proposals that document those low population densities within a tract, e.g. by census block.</p>	<p>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 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>
4558	Zetz, SWANA	<p>Proposed Language: Section 18984.12 <b>"...at or above 4,500 feet and generators in a lower elevation census tract, on a case by case basis, where there have been documented bear or other wildlife issues that have jeopardized public health and safety."</b></p> <p>Rationale: We greatly appreciate the addition of this waiver which will benefit areas that frequently experience bear, or other wildlife, conflicts that endanger public safety. However, under the California Fish and Game Code Section 251.1, it may be interpreted that leaving organic waste out for collections and processing will "...disrupt an animal's normal behavior patterns." <b>We suggest that there be a provision added to consider lower elevation areas that experience these same issues:</b></p> <ol style="list-style-type: none"> <li>1. An incorporated city may apply to the Department for a waiver for some or all of its generators in census tracts located in unincorporated portions of the county that are located at or above 4,500 feet or generators in census tracts which have a well-documented history with animal intrusion into solid waste containers and/or local solid waste operations or facilities.</li> <li>2. A county may apply to the Department for a waiver for some or all of its generators in census tracts located in unincorporated portions of the county that</li> </ol>	<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</p>

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		<p>are located at or above 4,500 feet or generators in census tracts which have a well-documented history with animal intrusion into solid waste containers and/or local solid waste operations or facilities.</p> <p>Please see attachment A for the American Black Bear Range map put together by the California Department of Fish and Wildlife. Processor attached attachment A to the end of the SWANA letter.</p>	<p>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 &gt; 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 <a href="https://oehha.ca.gov/calenviroscreen/sb535">https://oehha.ca.gov/calenviroscreen/sb535</a>); 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 &lt;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.
4559	Zetz, SWANA	<p>Section 18984.13 Proposed Language: (1) If the facility processing a jurisdiction’s organic waste notifies the jurisdiction that unforeseen operational restrictions have been imposed upon it by a regulatory agency or that an unforeseen <b>or temporary</b> equipment or operational failure will temporarily prevent <b>or impair</b> the facility from processing and <del>or</del> recovering organic waste, the jurisdiction may allow the organic waste stream transported to that facility to be</p> <p>Rationale:The allowance for unforeseen circumstances is a valuable accommodation, but <b>the removal of the “temporary” condition is problematic and should be reinstated.</b> There are situations when equipment or operations may need to be “temporarily” stopped or slowed, such as extensive maintenance. These conditions can be planned to minimize disruptions but could impact the ability to operate.</p> <p>(a)(2) Not all temporary or unforeseen circumstances will result in a complete failure to receive and process a jurisdiction’s wastes.</p>	Thank you for the comment. CalRecycle corrected the spelling of ‘unforeseen.’ No additional changes are necessary for adding “temporary” as the text already has "temporarily' further in the sentence.
4560	Zetz, SWANA	<p>Section 18985.1 Proposed Language: <b>We recommend that the proposed regulations use the current public health standard of five percent of a “substantial number of non-English-speaking people”.</b> This will allow a jurisdiction to utilize existing language resources and not invest in establishing a more stringent standard.</p> <p>Rationale: Education and outreach are a critical component of any successful solid waste diversion and disposal program. As proposed, the requirement for providing information in languages other than English is confusing. First, there is no reference cited for the term “speaks English less than very well”. The Initial Statement of Reasons (ISOR) from the previous version of regulations indicates the source is the U.S. Census; however, the ISOR indicates a standard of “if more than five percent of a jurisdiction’s generators are defined as “Limited English-Speaking Households” or “linguistically isolated.” Another limitation of the U.S. Census is that each non-English language designation uses an “Other” category to consolidate some languages. For example, the 2010 Census values for the County of Fresno lists a more than 0.5% number of “Other Indic languages,” but the listed specific language are not individually over the 0.5% threshold.</p> <p>The typical Public Health Standard to provide materials is “substantial number of non-English-speaking people” “and who comprise 5 percent or more of the people served by the statewide or any local office or facility of a state agency” (California Government Code Section 7296.2). It seems an inappropriate public policy to have solid waste education and outreach more stringent than essential public health requirements.</p> <p>We recommend that the proposed regulations use the current public health standard of five percent of a “substantial number of non-English-speaking people”. This will allow a jurisdiction to utilize existing language resources and not invest in establishing a more stringent standard.</p>	Comment is on text that was removed from the final regulation and replaced with reference to the Government Code Section 7295 linguistic standards.

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4561	Zetz, SWANA	<p>Section 18988.1 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. <b>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.</b> 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>
4562	Zetz, SWANA	<p>Section 18989.1 Proposed language: <b>Add clarifying language citing the CALGreen regulations.</b></p> <p>Rationale: We disagree with including enforcement of the CALGreen standards in this regulation and recommend this section be deleted to avoid enforcement confusion, duplication and overlap. Building standards are issued by the Building Standards Commission, implemented and enforced by local Building Departments, and are not subject to the authority of CalRecycle.</p>	<p>CalRecycle is not adopting a new building code. The regulations require jurisdictions to enforce the aspects of CalGreen and MWELo requirements that help reduce the disposal of organic waste. Jurisdictions are already required to comply with these requirements, including them in the regulations ensures that CalRecycle can require that policies that are necessary to reduce organic waste disposal are implemented.</p>
4563	Zetz, SWANA	<p>Section 18989.2 Proposed Language: <b>Delete entire section.</b></p> <p>Rationale: We disagree with including this requirement in the proposed regulations because jurisdictions are already required to adopt Model Water Efficient Landscape Ordinance (MWELo) and, again, to avoid unnecessary regulatory duplication and overlap.</p>	<p>CalRecycle is not adopting a new building code. The regulations require jurisdictions to enforce the aspects of CalGreen and MWELo requirements that help reduce the disposal of organic waste. Jurisdictions are already required to comply with these requirements, including them in the regulations ensures that CalRecycle can require that policies that are necessary to reduce organic waste disposal are implemented.</p>
4564	Zetz, SWANA	<p>Section 18990.1 This section prohibits a jurisdiction from adopting or enforcing an ordinance, policy, permit condition, etc. that would prohibit organic waste coming from outside the jurisdiction. <b>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.</b> This type of blanket prohibition takes away the ability of local jurisdictions to ensure that their own processing capacity is maintained.</p>	<p>The proposed regulatory text currently allows for jurisdictions to guarantee facility capacity for organic waste generated from the jurisdiction. A change to the regulatory text is not necessary.</p>
4565	Zetz, SWANA	<p>Proposed Language: <b>Jurisdictions shall not be required to implement such a program. See additional comments in rationale.</b></p> <p>Rationale: There are several Food Recovery Organizations with programs within the various jurisdictions and counties in the state that are effective in working directly with Edible Food Generators conducting successful Edible Food Recovery Programs. The proposed legislation mandates that jurisdictions now become a go between the current solution, becoming an additional layer to provide education, increase food recovery access, monitor and report among the various active programs. The new</p>	<p>A change to the regulatory text was not necessary because the jurisdiction edible food recovery program requirements are intended to help increase edible food recovery in California, and will be critical in helping California achieve SB 1383's goal to recover 20% of currently disposed edible food for human consumption by 2025. The jurisdiction edible food recovery program requirements are critical because the program requirements include providing education and outreach to commercial edible food generators so that generators are aware of the edible food recovery requirements that they are subject to. The jurisdiction edible food recovery program requirements also include enforcement requirements where jurisdictions must monitor</p>

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		<p>mandates within this regulation would convolute and negatively impact the efficiencies of the many great programs already in place. The legislation should be modified similar to the concept of AB 901, where Edible Food Generations and Food Recovery Organizations report directly to CalRecycle. Implementation of such a methodology would alleviate the expected financial burden on jurisdictions to implement a Food Recovery Program as proposed in current regulation. Additionally, most Food Recovery Organizations already have their own outreach programs and efficient solutions to grow their programs. This regulation should be modified to encourage jurisdictions to partner with Food Recovery Organizations and Generators to further improve the various programs already in place.</p>	<p>commercial edible food generator compliance with SB 1383’s edible food recovery regulations. In addition, another critical jurisdiction edible food recovery program requirement is that jurisdictions must increase edible food recovery capacity if it is determined that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs. The new mandates within this regulation should not convolute or negatively impact the edible food recovery programs that are already in place. The jurisdiction edible food recovery program requirements are intended to help California achieve the 20% edible food recovery goal by creating programs in jurisdictions where none exist, and by strengthening existing programs. Regarding the comment “the legislation should be modified similar to the concept of AB 901, where Edible Food Generations and Food Recovery Organizations report directly to CalRecycle.” Changes to the regulatory text were not necessary because commercial edible food generators are not required to report any information. 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 only required to maintain records. Regarding the comment, “this regulation should be modified to encourage jurisdictions to partner with Food Recovery Organizations and Generators to further improve the various programs already in place.” A change to the regulatory text was not made because the regulations already include requirements for jurisdictions to work with food recovery organizations and food recovery services to expand and increase food recovery operations in California. This is inherent in the jurisdiction food recovery program requirements and edible food recovery capacity planning requirements.</p>
4566	Zetz, SWANA	<p>This section allows a jurisdiction to use a local waste characterization study, which SWANA LTF appreciates. Some jurisdictions do not fit neatly into the averages developed in the statewide waste characterization studies coordinated by CalRecycle. A local waste characterization study provides a jurisdiction insight into specific waste categories in their area and allows for targeting additional categories. A local waste characterization study could be developed by expanding a Gray Container Waste Evaluation proposed in Section 20901. Unfortunately, the advantage of a local waste characterization study is obliterated since the proposed regulations allow CalRecycle’s most recent waste characterization study to override the local study. Currently, CalRecycle has been conducting waste characterization studies at two to five-year intervals. Local waste characterization studies are expensive, and the local waste characterization study should be allowed to remain in effect for these planning requirements for at least ten years.</p>	<p>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. CalRecycle already allows for five years, which provides flexibility to jurisdictions. Given the impacts of the regulations CalRecycle expects the waste stream to significantly change, such that a ten-year old waste characterization study would not be reflective of the organic waste stream.</p>
4567	Zetz, SWANA	<p>Section 18992.3 This section sets due dates and reporting periods for each county, in coordination with cities and regional agencies, to submit a report on organic waste recycling and food waste recovery capacity planning. The reports cover a period of years but are all due on August 1st, which is also the date jurisdictions need to submit their Electronic Annual Report (EAR). Currently, the EAR requires annual review and update for counties and regional agencies to submit long-term</p>	<p>A change to the regulatory text is not necessary. CalRecycle anticipates the capacity planning will be reported in the Electronic Annual Reporting System. The capacity planning is inclusive of the AB876 requirements and Regional Agencies should be able to report in coordination with the county and cities.</p>

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		<p>organics infrastructure planning (AB 876). In order to avoid duplicative efforts and possibly conflicting information, this reporting requirement should be included in the appropriate year's EAR. Also, Regional Agencies should be allowed to submit the report in coordination with the county and cities.</p> <p>Regional Agencies, in coordination with the county and cities, should be allowed to develop all aspects in Article 11. Regional cooperation is a key benefit of a Regional Agency; each Regional Agency includes the unincorporated area of the county and the included cities. One currently approved Regional Agency is a bi-county effort. Another Regional Agency only comprises a portion of a county unincorporated area and some of the cities.</p>	
4568	Zetz, SWANA	<p>Section 18992.3 <b>This section is not clear if reporting will be part of the existing EAR or separate. We ask for clarifying language.</b></p>	<p>A change to the regulatory text is not necessary. The annual reporting required by the SB 1383 regulations will be incorporated into the existing Electronic Annual Report.</p>
4569	Zetz, SWANA	<p>Proposed Language: <b>Delete entire section.</b></p> <p>Rationale: The second draft to these regulation increases the mandate by 14.3%, to 0.08 tons per resident per day. The huge gap between this requirement and the jurisdiction's actual needs for organics-derived materials indicates a serious flaw in the assumptions underlying this provision. The assumed link between local government's 13% share of GPD and local government's ability to absorb organics-derived products appears to be faulty. In any case, the requirements presume the availability of products that are not currently available and may not be available for years.</p> <p>We ask that Article 12 be deleted from this regulatory phase and taken up as a separate, future item when we all have more information on the types and availability of end products made from diverted organics.</p> <p>Please see attachment B. Processor added Attachment B to the end of the SWANA letter.</p>	<p>A specified procurement amount is necessary for jurisdictions to measure compliance with Article 12, which is necessary to achieve the ambitious diversion targets required by SB 1383. Please refer to the Final Statement of Reasons for Section 18993.1 which includes text explaining the purpose and necessity of the provisions of the final regulation including the per capita procurement target. The per capita procurement target increase from 0.07 to 0.08 is based on higher than estimated disposal data recently obtained from the department's Disposal Reporting System (DRS). The corresponding increase in diversion impacted the per capita procurement target. For reference, the initial per capita procurement target was based on an estimated 21,000,000 tons of organics diversion by 2025. The new DRS data increased the organics diversion estimate to 25,043,272 tons. That number is multiplied by 13% (government GDP), and divided by CA population estimated in 2025 (42,066,880); result is 0.08.</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. 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>Regarding availability of products not currently available, the procurement requirements are designed to build markets for recovered organic waste products, not keep markets unchanged as the comment seems to suggest. The options available today do not necessarily reflect the options that will be available in the future once the more than 25 million tons of organic waste are diverted and processed. Therefore, revising these regulations to satisfy current availability of recovered organic waste products and current infrastructure would not be forward-looking nor would it match the intent of Article 12.</p>

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			<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. 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>
4570	Zetz, SWANA	<p>Section 18993.1 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) &amp; (40).</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 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>

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4571	Zetz, SWANA	Section 18993.1 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 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.	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.
4572	Zetz, SWANA	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 CalRecycle. <b>We recommend jurisdiction be required to only provide CalRecycle with (a) A general description of the route location, (b) A general description of account reviewed, and (c) A list of account holders determined by the jurisdiction to be subject to enforcement actions.</b>	This comment was made during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.  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.
4573	Zetz, SWANA	Section 18995.2 Good changes that provide more time for jurisdictions to provide access to, and include information in, the Implementation Record.	Comment noted. Comment expresses opinion and is not recommending a regulatory text change.
4574	Zetz, SWANA	Section 18996.2 <b>We request that CalRecycle revise the definition of “substantial effort”, “extenuating circumstances”, and “critical milestones” as define Section 18996.2 (a) to be consistent with provisions of PRC Sections 41821, 41825 4 and 41850.</b>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
4575	Zetz, SWANA	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, <b>receiving all approval by decision-making bodies</b> , 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.	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.
4576	Zetz, SWANA	Section 18997.2 Proposed Language: (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); <b>(b) Those facilities that do not have access within their own jurisdiction to a organics processing facility shall be exempt from the below stated penalties, until</b>	This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.



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		<p><b>such time that an organic’s processing facility is operational within the facility’s jurisdiction. This exemption shall be approved by the EA and documented annually.</b></p> <p>Rationale: There are no organic processing facilities in certain areas of the State (Merced CA for example). Because of this, the facilities would be unable to meet the new law and would be subject to violations and penalties beyond their control. An exemption is needed to deal with the number of facilities within the state that do not have a processing facility in their jurisdiction.</p>	
4577	Zetz, SWANA	<p>Section 18997.3 The titles of and/or “Description of Violation” sections in Tables 6, 8, 9, and 10 should be revised to clarify whether the penalties in these tables would be imposed by CalRecycle on the appropriate listed entity, or on jurisdictions for failing to enforce the requirements on the applicable entities, such as haulers, organic waste generators, property owners, etc.</p>	<p>This comment was made and was responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
4578	Zetz, SWANA	<p>Section 18997.3 Proposed Language: <b>Delete entire section.</b></p> <p>Rationale: This section is unclear; it appears that the intent is to provide a mechanism to apply partial fines for not meeting the full procurement target, but it needs clarification to avoid the misperception that the regulation is establishing a daily procurement target/expectation.</p> <p>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> <p>Recommend Article 16 be deleted from this regulatory phase and taken up as a separate, future item when we all have more information on the types and availability of end products made from diverted organics. We also recommend creating an exemption for jurisdictions who, due to unforeseen circumstances, are unable to meet the procurement requirements in Article 12. There may be instances where it’s impossible to procure organic waste products due to lack of availability, infrastructure, or budget constraints.</p>	<p>A change to the regulatory text is not necessary. Section 18993.1(a) states that 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. Section 18997.3(d) was added to the regulation text to allow a method to issue penalties on a per day basis consistent with the limitations on penalty amounts in SB 1383 for a procurement target that is measured on a per year or annual basis to be fair, equitable, and avoid excessive penalties. These penalty provisions should not be misunderstood as a per day procurement target.</p> <p>Regarding the local procurement mandates, this comment was made and responded to during the 45-day comment period and is not germane to changes made to the regulations in the 15-day comment period.</p>
4579	Zetz, SWANA	<p>Section 18997.3 Proposed language: <b>New Subsection (f) – Penalties imposed on a jurisdiction for violations of the regulations as stipulated in the Article 16 are not cumulative regardless of number of penalties at a given time. Additionally, the maximum penalty amount that CalRecycle is authorized to impose on a jurisdiction for failure to comply with any or all requirements of this Chapter is limited to an amount not to exceed \$10,000 per day.</b></p> <p>Rationale: Pursuant to Section 41850 (a) of the Public Resources Code, SB 1383 authorizes CalRecycle to impose penalties of up to \$10,000 per day upon jurisdictions for failure to comply with regulations. However, as currently written, Section 18997.3 of the Second Draft of the proposed regulations appears to provide for CalRecycle’s penalties to be concurrent and cumulative (emphasis added). For</p>	<p>CalRecycle has revised Section 18997.3 in response to this comment. The change is necessary to explain that penalties shall not exceed \$10,000 a day pursuant to PRC Section 41850.</p>

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		<p>example, if CalRecycle finds a jurisdiction in violation of several requirements (let's assume nine) of the proposed regulations and each violation is subject to a maximum provided Penalty of \$1,000 per day, then the jurisdiction could be subject to a penalty of \$90,000 per day. This is not consistent with state law (PRC, Section 42652.5). Therefore, Section 18997.3 needs to be revised to include provisions which specifically prohibit CalRecycle from cumulating penalties regardless of the number of violations by a jurisdiction while limiting the amount of penalties that CalRecycle is allowed to impose on a jurisdiction for failure to comply with any or all requirements of the proposed regulations to a maximum amount of \$10,000 per day.</p>	
4580	Zetz, SWANA	<p>Section 18998.1 Proposed Language: Requirements for Performance-Based <del>Source Separated</del> Collection Service  <del>(a)(3) Ensure that the presence of organic waste in the gray container collection stream does not exceed an aggregate of 25 percent by weight of total solid waste collected in that stream on an annual basis. Demonstrate that less than 25 percent of the content of all organic waste collected by the jurisdiction is sent to landfill disposal.</del></p> <p>Rationale: A high-performing system diverts organics with both source separated collection and recovery of additional organic material from gray container waste using post-collection mechanical and/or hand sorting. System performance must be measured at the system level. The percentage of organics in the gray container prior to post-collection sorting is not relevant and should not disqualify a jurisdiction performance-based compliance.  Combining source-separation with post-collection recovery of organics is likely to be the only way to achieve 75% reduction of organics disposal.</p>	<p>The waste composition evaluations for the gray container are performed prior to processing. Post processing evaluation does not provide an indication of contamination. Instead, it provides an indication of recovery, which is not the requirement of the section. A jurisdiction that requires generators to place organic waste in the gray container must meet its container contamination monitoring requirements through performing route reviews.</p>
4581	Zetz, SWANA	<p>Section 17402 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 of consolidation sites 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>
4582	Zetz, SWANA	<p>Section 17409.5 Proposed Language: (a) The operator of an attended operation or facility shall implement a <b>random</b> loadchecking program to prevent the acceptance of waste which is prohibited by this Article. This program must include at a minimum:</p> <p>(1) the number of <del>random</del> loadchecks to be performed <b>based upon the selection of one random week every quarter;</b></p> <p>(2) a location for the storage of prohibited wastes removed during the loadchecking process that is separately secured or isolated, <b>or an alternative that is consistent with the physical constraints of the facility;</b></p> <p>(3) records of loadchecks and the training of personnel in the recognition, proper handling, and disposition of prohibited waste. <b>In lieu of the use of the facility's personnel to conduct loadchecks, contract inspection staff may be utilized that</b></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>

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		<p><b>have been certified in training for these applications.</b> 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>Rationale: 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 sort through the incoming solid waste streams. These physical restrictions will become even greater when processing facilities ramp up to handle greater volumes of organic waste. 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>	
4583	Zetz, SWANA	<p>Section 17409.5.6 Proposed Language: (a) Source-separated organics waste handling processing shall be kept separate from other solid waste streams.</p> <p><b>(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.</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 for <b>operational efficiency and</b> away from other activity areas in <b>designated and specified, clearly</b> identifiable areas as described in the Facility Plan or Transfer/Processing Report; and,</p> <p>(2) <del>removed</del> <b>Removed</b> from the site consistent with section 17410.1 and either:</p> <p>(A) transported <del>only</del> to another solid waste facility, <b>POTW</b>, or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in section (xxxx20.1) of this Division; or,</p> <p>(B) used in a manner approved by local, state, and federal agencies having appropriate jurisdiction; or,</p> <p><b>(C) sent for disposal.</b></p> <p>Rationale: This section 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.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations. 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>

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4584	Zetz, SWANA	<p>Section 17409.5.7 Proposed Language: <b>Delete entire section.</b></p> <p>Rationale: This section contains similar language to Section 20901, page 153, for transfer/processing facilities and disposal facilities, with one exception, that disposal facilities are required to sample gray container waste streams for jurisdictions that deliver waste “<b>directly</b>” to the facility. We interpret this to mean that waste delivered to the landfill from a transfer/processing facility is not required to be sampled, particularly since sampling that waste stream would duplicate the requirements in this section.</p> <p>The number of samples and frequency would require an increase in personnel and equipment which will not only significantly increase operational costs but more importantly place these additional employees in an often dangerous and hectic environment, creating an additional safety concern. Facilities try to avoid placing “boots on the ground” as much as possible to reduce the likelihood of serious accidents and injuries. Cordoning off a separate area is not always feasible as most facilities do not have the additional open space available. Additionally, gathering a composite sample from a single jurisdiction over the course of an operating day is completely impractical. Additional permitting requirements may be necessary as well to facilitate this new activity.</p>	<p>CalRecycle has revised Section 17409.5.7 in response to comments. The changes will reduce the number of waste evaluations, frequency of samples, and reporting requirements. This change is necessary to replace the provision with a less burdensome alternative. 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>
4585	Zetz, SWANA	<p>Section 17409.5 Proposed Language: (b) When required by this article, the operator shall report tonnages using a scale or. <del>If scales are not accessible, the EA may approve, with concurrence by the Department,</del> the operator to report the tonnages using a method described in Section 18815.9(g).</p> <p>Rationale: The use of alternatives to scales, such as volume conversion for small facilities, was extensively discussed throughout the AB 901/Recycling and Disposal Reporting System. The criteria are already established in Section 18815.9 (g). This process is clearly detailed in 18815.9 (g) and does not require EA approval nor concurrence by CalRecycle. There is no justification for imposing levels of approval on a concept that has successfully been operating for nearly 20 years.</p>	<p>A change to the regulatory text is not necessary. This section is consistent with approvals of alternatives pursuant to this section. In addition, the approval by the EA and Department is to ensure that the alternative method proposed is as accurate as scales.</p>
4586	Zetz, SWANA	<p>Section 17409.5.10.5 The 10 percent requirements need clarification, so not mistaken that facility, as a whole, has to divert 90%.</p> <p>In addition, the use of the term remnant organic material is unclear.</p>	<p>CalRecycle has revised the proposed regulations text dated January 18 during the 45-day comments in response to comments 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. 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>Comment noted. Remnant organic material is defined in Section 17402(a)(23.5) and is the organic waste collected in the gray container, as part of a three-container organic waste collection system.</p>

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4587	Zetz, SWANA	Section 17409.5.11 SWANA LTF appreciates the change in this section.	Comment noted. We thank the commenter for their support.
4588	Zetz, SWANA	<p>Section 17414.2 Proposed Language: <b>Delete (10) (d).</b>  <del>(c)(d) All records required by this article shall be kept by the operator in one location 29 and accessible for three (3) five (5) years and shall be available for inspection by the 30 EA and other duly authorized regulatory agencies during normal working hours.</del></p> <p>Rationale: Solid Waste facilities are currently required to retain records for a period of 3-years; the requirement for 5-years is excessive and above what is already required.</p>	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).
4589	Zetz, SWANA	<p>Section 17869 Proposed Language: (5) The address, parcel number, or other equivalent indicator of physical location of each property receiving compostable material for land application. <del>(6) The weight of material sent to each location identified in (5).</del></p> <p>Rationale: We struggle to understand the need for this added requirement. We do not think it is reasonable to expect a compost facility to know and track the destination of compostable material sold, especially considering that material is purchased in bulk, passes through multiple hands, and the ultimate disposition of the material is not always known. We understand the concern regarding abuse of land application, but this is enforced at solid waste facilities through existing regulation; the extent and manner that this oversight is incorporated into the regulation and applied to offsite (and potentially private) uses is not reasonable – it simply is not possible for an operator to know this information. We request this language be deleted.</p>	CalRecycle has revised Section 17896 in response to comments. The changes in this Subdivision deleted the requirement that operators maintain a record of the address, parcel number, and weight of the compostable material sent to land application. The change was necessary to replace the provision with a less burdensome alternative. This subdivision now requires operators to maintain records of the total weight of compostable material sent off site to any destination other than to permitted solid waste facility or operations. This was necessary to lessen the burden on the operators from collecting information that may not be readily available to them. This change requires operators to include information they should already have available. This is necessary to ensure that the material sent off to a destination that is not a permitted solid waste facility was processed to a level that meet the physical contaminates limits standards.
4590	Zetz, SWANA	<p>Section 17896.44.1 Proposed language: 1. For each reporting period, the operator shall perform the sampling protocol required in subdivision (a)(16)(B) <b>Section ____</b> over at least ten (10) consecutive operating days.</p> <p>Rationale: There seems to a missing reference section number. We ask for CalRecycle to include the appropriate section number.</p>	CalRecycle has revised this section accordingly.
4591	Zetz, SWANA	Section 18815.5 <b>The numbering in this section has two (e). The second (e) should be changed to (f) and the old (f) should be changed to (g) in this section and in any references in the entire packet.</b>	CalRecycle has revised this section accordingly.
4592	Zetz, SWANA	<p>Section 18815.5 The use of a rolling quarterly recovery efficiency does not adequately allow for seasonal fluctuations or changes in waste flows. A longer period should be used. Calculating a new annual average every quarter based upon the immediately preceding quarters could result in jurisdictions having to change facilities too often, resulting in increased transportation costs and would require contract negotiations with multiple sites.</p> <p>The recovery efficiencies are reported to CalRecycle but there is no requirement on when or who notifies the jurisdictions of the rates.</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.

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			<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>
4593	Zetz, SWANA	<p>Section 18815.7 Proposed language: (A) The <del>monthly</del> percentage of organic waste contained in <del>materials residuals sent to landfill disposal removed from processing</del> as calculated pursuant to 3 17869(e)(15) or 17896.45 (a)(1)(E)</p> <p>Rationale: Please see rationale as stated in Article 1, Section 18982, page 5, line 25. (Comment 4536) Rationale for comment 4536 Concerned about the use of the word “disposal” and the phrase “landfill disposal”. In some of the proposed 15-day language changes, “disposal” within the general meaning of the Public Resources Code and Title 14 and Title 27 regulations broadly include landfill disposal, as well as other types of disposal, including transformation. The term “landfill disposal”, on the other hand, within the meaning of these proposed SB 1383 regulations only includes landfill disposal, not transformation. It is most important to recognize this distinction when using these terms throughout the proposed regulations. The first use of the term “disposal” on line 27 is appropriate as it pertains to the requirements of existing regulations in Title 14. However, the use of the term “disposal” on line 32 does not appear to be appropriate as it refers to new requirements for the diversion of organics from landfills pursuant to these SB 1383 regulations. SWANA understands that products produced from Article 2 technologies will be counted as a diversion from landfill disposal but, when used as a low carbon fuel in an industrial furnace it will still be regulated as a form of disposal under the EMSW. The use of the term “disposal” in line 32 would appear to disqualify a product even though it may be produced as a fuel for use in an EMSW “disposal” facility. Thus, we request that the term “disposal” in line 32 on page 5 be changed to “landfill disposal.”</p>	<p>Comment noted. CalRecycle does not believe a change is necessary as the term disposal as used in the scoping section clearly refers to landfill disposal. The term disposal and landfill disposal are frequently used interchangeably. In fact, the section of the Health and Safety Code codified by SB 1383 commenter does just that: Health and Safety Code Section 39730.6.</p> <p>(a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics:</p> <p>(1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020.</p> <p>(2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025.</p> <p>(b) Except as provided in this section and Section 42652.5 of the Public Resources Code, 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.” (emphasis added).</p> <p>As noted in the Initial Statement of Reasons, there is no existing definition of landfill disposal, or organic waste disposal in the Health and Safety code. As a result, Article 2 of the regulations specifically identifies activities that constitute landfill disposal of organic waste for the purposes of the regulations. The regulations also identify activities that constitute a reduction of landfill disposal of organic waste. Activities that constitute landfill disposal were identified in the regulations in consultation with CARB, as required by statute.</p> <p>However in response to comments on this item CalRecycle staff conducted a thorough review to ensure the term disposal and landfill disposal were used properly and consistent with the statutory intent throughout the regulation.</p>
4594	Zetz, SWANA	<p>Section 20750.1 Proposed Language: <b>Recommend deleting section.</b></p> <p>Rationale: In addition to our comment communicated in our May 16, 2018 letter regarding the need for landfills to construct a MRF, is the potential financial success of such a solution is highly unlikely and would require much higher processing rates than facilities that receive source-separated materials. Upon implementation of SB 1383, it assumed most jurisdictions would be separating organic materials at the</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>

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4595	Zetz, SWANA	<p>source of generation, i.e., residence or business so the expected recovery rates of organics at a landfill MRF will be extremely low.</p> <p>Section 20901 Proposed Language: <b>Recommend removing all references to disposal facilities. Replace disposal facilities with requirements on haulers and jurisdictions or prohibit gray container collection streams from being delivered to disposal facilities.</b></p> <p>Rationale: It is our understanding that this section has been included so jurisdictions may receive exemptions for Section 18984.5 – Container Contamination Minimization. We understand the desire to provide jurisdictions this exemption however, as the regulations are currently written the onus and cost is entirely placed on the disposal facility.</p> <p>Not only do we believe the sheer amount of waste evaluations is an impossible task, we believe the methodology described in the proposed regulations has numerous flaws.</p> <p>Many disposal facilities do not track jurisdiction of origin as material comes in, instead it allocated by the hauler in arrears. This is consistent with AB 901 requirements.</p> <p>Disposal facilities do not track which waste stream material is from as it comes to a disposal facility. Nor is this a requirement in AB 901.</p> <p>Gray container waste may be mixed with other waste streams before it arrives to a disposal facility.</p> <p>Gray container waste may be mixed with multiple jurisdictions before it arrives to a disposal facility.</p> <p>Jurisdictions which take material to multiple disposal facilities will have many more waste evaluations conducted.</p> <p>The requirement to take samples throughout the day is impossible, as stated above disposal facilities may not know when or where material will come to prior to its arrival.</p> <p>Samples are required to be collected at random times throughout a typical operating day. Typically, some loads come at the end of the operating day and in order to process these late samples, the facility may not be able to end the day's operations until the sampling is complete. This could potentially require extending the permitted hours and possibly require a permit change to reflect the sampling operation.</p> <p>There is no language regarding what a disposal facility should do if a jurisdiction met required testing thresholds in the prior year but no longer brings material to a disposal facility.</p> <p>There are safety concerns regarding having sufficient space at the landfill to conduct these studies, especially with new requirements requiring organic processing at landfills.</p> <p>The number of samples and frequency would require an increase in personnel and equipment which will not only significantly increase operational costs but more</p>	<p>CalRecycle has deleted the Gray Container Waste Evaluations that were required to be performed at landfills in response to comments. The gray container waste evaluations will only be required to be performed at transfer/processing facilities and operations. The landfill operators would only perform a gray container waste evaluation if requested by the jurisdiction to be performed at the landfill instead of the transfer/processing facility or operation.</p>

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		<p>importantly place these additional employees in an often dangerous and hectic environment, creating an additional safety concern. Facilities try to avoid placing “boots on the ground” as much as possible to reduce the likelihood of serious accidents and injuries. Cordoning off a separate area is not always feasible as most facilities do not have the additional open space available.</p> <p>Additional permitting requirements may be necessary as well to facilitate this new activity.</p> <p>We believe that if a jurisdiction wishes to become exempt from Section 18984.5, the jurisdiction should be required to show CalRecycle that they meet the maximum quantity of organic material in the gray bins. It does not seem reasonable to conduct 1,000’s of these studies when there may not be any jurisdictions that are attempting to become exempt.</p> <p>We would also like to remind CalRecycle that SB 1383 sets statewide goals for organic waste disposal reduction, and thus, there should not be any requirements for tracking of organic disposal on a jurisdictional level.</p>	
4596	Zetz, SWANA	<p>Section 21570 (f)(13) CalRecycle provided no clarity on why there would be a public meeting <b>prior</b> 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>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 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>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.</p>
4597	Zetz, SWANA	<p>Section 21695 Proposed Language: <b>1. Delete entire section, or</b>  <b>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</b></p> <p>Rationale: Per our previous letter, the Status Impact Report (SIR) requires 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</p>	<p>CalRecycle has revised Section 21695 in response to comments. The changes to the regulatory text include the removal of Subdivision (i), the addition of the requirement to 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</p>



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		<p>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 regulation, 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>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>
4598	Zetz, SWANA	<p>Section 21695 Proposed Language: (d) The SIR shall be submitted to CalRecycle <b>within one and a half years (545 days)</b> from the effective date of this regulation. <b>The EA may approve an extension of up to 180 days. The operator must submit an extension request in writing to the EA no later than 60 days prior to the initial deadline with the reason(s) why the deadline can not be met. In the event the EA does not respond to the extension request by the initial deadline the request shall be deemed approved as submitted. In no event shall submittal of the SIR exceed 2 years from the effective date of this regulation</b></p> <p>Rationale: A municipality will not be able to procure a consultant, have them perform the extensive requirements for the SIR, have the consultant draft the SIR for review, review and comment on the SIR, finalize and submit the SIR within 365 days. We believe an extension is necessary.</p>	<p>A change to the regulatory text is not necessary. CalRecycle revised Section 21695(d) based on comments received during the 45-day comment period asking for more time to submit the Status Impact Report (SIR). The changes extend the date for submittal of the SIR from 180 days to one year from the effective date of this regulation.</p> <p>The time frames for the review and approval of the SIR are necessary to allow the impact to be reviewed and approved within 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>
4599	Zetz, SWANA	<p>Section 21695 Proposed Language: (e) Within 30 days of receipt of a SIR, CalRecycle shall make a determination as to the 12 completeness of the SIR based on the requirements of sSubdivisions (b) and (c). If a 13 SIR is determined to be incomplete, CalRecycle shall provide to the operator, in writing, 14 the reasons for the determination. <b>(1) In the event the CalRecycle does not respond to the operator in writing within 30 days of receiving the SIR, the SIR shall be deemed complete as submitted.</b></p> <p>Rationale: There needs to be accountability for a response.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>
4600	Zetz, SWANA	<p>Section 21695 Proposed Language: (f) For a SIR determined to be incomplete, the operator shall submit a revised SIR 16 addressing any enumerated deficiencies within <del>30</del> <b>60</b> days of receipt of notice from CalRecycle of an incomplete SIR.</p> <p>Rationale: We believe that 30 days to address any enumerated deficiencies is insufficient, especially for a municipality. We suggest increasing the 30-days requirement to 60-days.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>
4601	Zetz, SWANA	<p>Section 21695 Proposed Language: (g) Within 60 days of a determination of completeness, CalRecycle shall submit its findings to the EA regarding amendments, if any, to the Joint Technical Document as a result of the SIR.</p>	<p>This comment is not related to the text revisions outlined in this 15-day comment period for the June 17 draft regulations.</p>

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		<p>(1) If amendments are required, the EA shall direct the operator to submit an updated Joint Technical Document including updated closure and postclosure maintenance plans that includes the information from the SIR.</p> <p>(2) The EA shall notify the operator within 30 days of receipt of CalRecycle's findings.</p> <p><b>(3) In the event the EA does not notify the operator within 30 days of receiving the SIR findings from CalRecycle, the SIR shall be deemed complete as submitted.</b></p> <p>Rationale: There needs to be accountability for a response.</p>	
4602	Zetz, SWANA	<p>Section 21695 Proposed Language: <b>Delete</b></p> <p>Rationale: The LTF disagrees with the need for a study to evaluate the effectiveness of intermediate cover and respectfully requests that Section 21695 (i) though Section 21695 (k) be eliminated from the proposed regulations. Landfills in the State are already regulated under CCR Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 6: Methane Emissions from Municipal Solid Waste Landfills. This regulation requires surface monitoring that checks the integrity of the cover whether it is considered daily, intermediate, or final. If the cover doesn't meet these regulatory performance standards, immediate remediation is required to bring it back to standard.</p>	CalRecycle has deleted Section 21695 (i) through (k) in response to comments.