SB 1383 REGULATIONS, SHORT-LIVED CLIMATE POLLUTANTS: ORGANIC WASTE METHANE EMISSION REDUCTIONS ENVIRONMENTAL IMPACT REPORT

FINDINGS and STATEMENT OF OVERRIDING CONSIDERATIONS

Introduction

The Department of Resources Recycling and Recovery (CalRecycle), as the lead agency for the proposed SB 1383 Regulations (Proposed Regulations), prepared a Draft Environmental Impact Report (EIR) to comply with the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, §21000, *et seq.*). The Draft EIR, entitled *Draft Environmental Impact Report, SB 1383 Regulations, Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction*, provided an analysis of the potential environmental impacts associated with the Proposed Regulations. Following circulation of the Draft EIR for a 45-day public review and comment period from July 30, 2019 through September 13, 2019, CalRecycle prepared the *Final Environmental Impact Report, SB 1383 Regulations, Short-Lived Climate Pollutants: Organic Waste Methane Emission Reduction* (Final EIR) which includes revisions to the Draft EIR. The Final EIR was posted on CalRecycle's webpage on _____. While modifications have been made to the EIR to ensure it reflects the proposed project as accurately as possible, these changes merely clarify, amplify, or make insignificant modifications to the otherwise-adequate Draft EIR. Therefore, there is no significant new information that would require the Final EIR to be recirculated.

The Final EIR is based on the expected compliance responses of the regulated entities covered by the Proposed Regulations. Although the policy aspects and requirements of the Proposed Regulations do not directly change the physical environment, there are potential indirect physical changes to the environment that could result from reasonably foreseeable actions undertaken by entities in response to the Proposed Regulations. These indirect impacts are the focus of the programmatic-level impacts analysis in the Final EIR.

As it pertains to CalRecycle, SB 1383 established 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. The law requires CalRecycle to adopt regulations designed to achieve the organic waste disposal reduction targets. The law also directs CalRecycle to include provisions in the regulations designed to achieve a target that not less than 20 percent of the amount of edible food currently disposed of is recovered for human consumption by 2025.

Redirecting organic waste from landfills and into beneficial uses in accordance with the Proposed Regulations is expected to result in environmental, public health, and economic benefits. CalRecycle has identified the following potential beneficial outcomes of the proposed regulation, discussed further herein: reducing greenhouse gas emissions, feeding the hungry, creating valuable materials such as soil amendments and biogas and transportation fuels, employment, benefits to California businesses, and increased soil health.

CEQA places the burden on the approving agency to affirmatively show that it has considered feasible mitigation and alternatives that can lessen or avoid identified impacts

through a statement of findings for each identified significant impact. (Pub. Resources Code, §21081.) CEQA Guidelines section 15091 provides direction on the content of the statement of findings. That section states that one or more of the following findings should be identified for each impact:

- Changes or alterations have been required in, or incorporated into, such projects which avoid or substantially lessen the significant environmental effect as identified in the final environmental impact report.

- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency.

- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Because the potential adverse impacts identified in this programmatic level EIR are potential indirect impacts associated with the compliance responses of covered entities, the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with local permitting authority, such as city or county governments and local air districts. Except in limited circumstances noted in the EIR and herein, CalRecycle does not have the ability to determine with any specificity the project level impacts, nor the authority to require project level mitigation in approving the Proposed Regulations, as discussed in the findings below.

An agency may approve a project with unavoidable (unmitigated) adverse environmental impacts. When doing so, CEQA requires the agency to make a statement in the record of its views on the ultimate balancing of the merits of approving the project despite the environmental impacts in a "statement of overriding considerations" (Pub. Resources Code, §21081(b); Cal. Code Regs, tit. 14, §15093.) The following presents CalRecycle's statement of findings for each significant adverse impact identified in the EIR, accompanied by a brief explanation, and its statement of overriding considerations.

STATEMENT OF FINDINGS

CalRecycle has independently reviewed and considered the entire record, including the information contained in the EIR, public testimony, written comments received, and the written responses to environmental comments, all of which are hereby incorporated by reference. CalRecycle makes the following written findings for each significant adverse impact identified, accompanied by a brief explanation of the rationale for each finding. These findings are supported by substantial evidence in the record.

Aesthetics

Finding and Explanation

Impact 3.1-1: Short-Term, Substantial Degradation of a Scenic Vista or Visual Character or Quality of Public Views, or Damage to Scenic Resources in a State Scenic Highway from Construction of Facilities in Response to the Proposed Regulations

Varying degrees of temporary degradation of public views would result during construction of facilities in response to the Proposed Regulations. Although there is uncertainty regarding the location of these facilities, construction activities and equipment associated with new facilities or modifications to existing facilities could introduce or increase the presence of visible artificial elements in areas of scenic importance, such as areas visible from State scenic highways. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.1-1: Implement Aesthetic Resource Protection Measures during Construction of New or Modified Facilities in Response to the Proposed Regulations. As described in Section 1.2 of the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant construction-related aesthetics impacts. *Therefore, CalRecycle finds that mitigation measures to reduce construction-related aesthetics impacts can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on aesthetic resources:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance responses would coordinate with State or local land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must follow all applicable environmental regulations as part of approval of a development project.

- Project proponents would implement all feasible mitigation identified during the environmental review to reduce or substantially lessen the potentially significant aesthetic impacts of the project. Actions may include equipment storage siting during construction within a property, daily clean-up of the construction site, and temporary fencing to prevent views of construction areas.

- To the extent feasible, the sites selected for use as construction staging and laydown areas would be areas that are already disturbed or are in locations of low visual sensitivity. Where feasible, construction staging and laydown areas for equipment, personal vehicles, and material storage would be sited to take advantage of natural screening opportunities provided by existing structures, topography, and vegetation. Temporary visual screens would be used where helpful if existing landscape features would not screen views of the areas.

- All construction and maintenance areas would be kept clean and tidy, areas where construction materials and equipment are stored would be screened from view or be located in areas generally not visible to the public, and disturbed soil would be revegetated, where feasible.

- To the greatest extent feasible, alteration of the visual setting of important scenic landscape features, areas in a setting for observation from State scenic highways, national or state historic sites, public trails, and cultural resources will be avoided when siting projects and their associated elements.

Mitigation Measure 3.1-1 would reduce aesthetic impacts because project design features, such as storage siting and selection of construction laydown areas, would be incorporated to reduce impacts on scenic vistas, visual character, or quality of public views of scenic resources associated with a State scenic highway. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that short-term, construction-related aesthetic impacts resulting from the development of new facilities associated with the Proposed Regulations could be potentially significant and unavoidable.*

Impact 3.1-2: Long-Term, Substantial Degradation of a Scenic Vista or Visual Character or Quality of Public Views, or Damage to Scenic Resources in a State Scenic Highway from Operation of Facilities in Response to the Proposed Regulations

Implementation of the Proposed Regulations would result in operation of new or modified organic waste handling and processing facilities at or near existing facilities or in urban areas zoned for industrial or solid waste handling facilities. The new or modified facilities would be similar in visual character to other nearby industrial or solid waste facilities. Thus, operations at these facilities would not substantially degrade the character or quality of public views. Long-term effects on aesthetics could occur from operation of new or modified facilities in response to the Proposed Regulations. New organic waste recovery and processing facilities that are located in agricultural or other areas not previously developed for solid waste, agricultural, or wastewater treatment facilities could degrade public views from a scenic vista, degrade the visual character or quality of public views of the site, or disrupt views from a State scenic highway. The long-term operational impacts on scenic vistas, visual character, or quality of public views or on scenic resources in a State scenic highway associated with operation of facilities in response to the Proposed Regulations would be potentially significant.

The EIR includes Mitigation Measure 3.1-2: Implement Aesthetic Resource Protection Measures during Operation of New or Modified Facilities in Response to the Proposed Regulations. Consideration of a project's long-term aesthetic effects is typically subject to the purview of a local jurisdiction, based on its planning policies, ordinances, and/or design

guidelines. Conditions of approval in a solid waste facility permit would not extend to regulating aesthetic impacts on a scenic vista, visual character, or quality of public view on scenic resources in a State scenic highway system. Site-specific, project impacts and mitigation measures would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval. *Therefore, CalRecycle finds that mitigation measures to reduce long-term aesthetics impacts can and should be implemented by local jurisdictions with land use authority.*

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on aesthetic resources:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance responses would coordinate with State or local land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must follow all applicable environmental regulations as part of approval of a development project.

- All feasible mitigation identified during the environmental review to reduce or substantially lessen the potentially significant scenic or aesthetic impacts of the project would be implemented. Actions may include facility or equipment siting within a property, visual screening by vegetation, fencing or walls to prevent views of operating areas, exterior paint colors that blend with landscapes, and lowest feasible height of visible equipment and structures.

- The color and finish of the surfaces of all project structures and buildings visible to the public would be carried out to (1) minimize visual intrusion and contrast by blending with the landscape and (2) comply with local design policies and ordinances. The project proponent would submit a surface treatment plan to the lead agency for review and approval.

- All operation and maintenance areas would be kept clean and tidy, areas where construction materials and equipment are stored would be screened from view or located in areas generally not visible to the public, and disturbed soil would be revegetated, where feasible.

Mitigation Measure 3.1-2 would reduce aesthetic impacts because project design features, such as visual screening, building surface types, and landscape designs would be selected and implemented to reduce impacts on scenic vistas, visual character, or quality of public views or on scenic resources. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that long-term operational scenic impacts*

resulting from the development of new or modified facilities associated with the Proposed Regulations could be potentially significant and unavoidable.

Impact 3.1-4: Temporary or Permanent New Sources of Substantial Light or Glare That Would Adversely Affect Day or Nighttime Views in Areas near Project Sites

Substantial light or glare that would adversely affect day or nighttime views could be generated by construction activities or during operation of new or expanded organic waste handling facilities developed in response to the Proposed Regulations. Construction activities would not be anticipated to result in new sources of substantial light or glare because of the short-term and temporary nature of those activities. However, operation of new or modified facilities in rural areas could include infrastructure containing reflective surfaces and could require safety lighting that would be noticeable in those areas. Implementation of the proposed project would result in potentially significant impacts related to permanent new sources of substantial light or glare that would adversely affect day or nighttime views in areas near specific organic waste handling facilities.

The EIR includes Mitigation Measure 3.1-4: Implement Light and Glare Reduction Measures during Operation of New or Modified Facilities in Response to the Proposed Regulations. Consideration of a project's long-term aesthetic effects is typically subject to the purview of a local jurisdiction, based on its planning policies, ordinances, and/or design guidelines. Conditions of approval in a solid waste facility permit would not extend to regulating issues such as the potential for new sources of light and glare to affect day or nighttime views. Site-specific, project impacts and mitigation measures would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval. *Therefore, CalRecycle finds that mitigation measures to reduce impacts due to temporary or permanent new sources of substantial light or glare can and should be implemented by local jurisdictions with land use authority.*

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize light and glare impacts:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance responses would coordinate with State or local land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must follow all applicable environmental regulations as part of approval of a development project.

- All feasible mitigation identified during the environmental review to reduce or substantially lessen the potentially significant light and glare impacts of the project would be implemented. Actions may include low-height lighting design, window glazing design, or minimized reflective surfaces.

- The color and finish of the surfaces of all project structures and buildings visible to the public would be carried out to (1) minimize glare and (2) comply with local design policies and ordinances. The project proponent would submit a surface treatment plan to the lead agency for review and approval.

- The project proponent would contact the lead agency to discuss the documentation required in a lighting mitigation plan, submit to the lead agency a plan describing the measures that demonstrate compliance with lighting requirements, and notify the lead agency that the lighting has been completed and is ready for inspection.

Mitigation Measure 3.1-4 would reduce aesthetic impacts because project design features, such as lighting and building surface types, would be selected to reduce light and glare effects. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that long-term operational glare and nighttime lighting impacts resulting from the development of new or modified facilities associated with the Proposed Regulations could be potentially significant and unavoidable*.

Agriculture and Forestry Resources

Finding and Explanation

Impact 3.2-1: Conversion of Farmland to Nonagricultural Use or Conflict with a Williamson Act Contract or Zoning for Agricultural Use

Construction and operation of new or modified organic waste recovery facilities could result in significant temporary, long-term, or permanent conversion of Prime Farmland, Farmland of Statewide Importance, and Unique Farmland and conflicts with Williamson Act contracts and agricultural zoning. However, the specific locations and scale of possible future facilities are not known. Therefore, the precise scale of conversion of farmland and conflicts with zoning or Williamson Act contracts cannot be determined at this time. Because there could be substantial conversion of farmland and conflicts with agricultural zoning and Williamson Act contracts, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.2-1: Implement Agricultural Resource Protection Measures during Construction and Operation of New or Modified Facilities Built in Response to the Proposed Regulations. As described in Section 1.2 of the EIR the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant impacts related to the location of specific facilities, including those on agricultural lands. Mitigation measures to reduce impacts on agricultural lands can and should be implemented by local jurisdictions with land use authority. Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval. *Therefore, CalRecycle finds that mitigation measures to avoid or minimize impacts on agricultural resources can and should be implemented by local jurisdictions with land use authority.*

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on agricultural resources:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance responses would coordinate with local or State land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must comply with all applicable regulations as part of approval of a development project.

- Project proponents would implement all feasible mitigation identified during the environmental review to reduce or substantially lessen the potentially significant environmental impacts of the project. Examples of types of mitigation to protect Farmland include:

  ☐ Designing proposed projects to minimize, to the greatest extent feasible, the loss of the highest value Farmland; or

  ☐ For projects that will result in permanent conversion of Farmland, preserve in perpetuity other Farmland through acquisition of an agricultural conservation easement, or contributing funds to a land trust or other entity qualified to preserve Farmland in perpetuity (at a target ratio of 1:1, depending on the nature of the conversion and the characteristics of the Farmland to be converted, to compensate for permanent loss).

- Any mitigation specifically required for a new or modified facility would be determined by the local lead agency, and future environmental documents by local and State lead agencies should include analysis of:

  ☐ Avoidance of lands designated as Important Farmland as defined by the FMMP, and

  ☐ The feasibility of using farmland that is not designated as Important Farmland before deciding on the conversion of Important Farmland.

- The feasibility, proximity, and value of the proposed project sites should be balanced before a decision is made to locate a facility on land designated as Important Farmland.

- Any action resulting in the conversion of Important Farmland should consider mitigation for the loss of such farmland. Any such mitigation should be completed before a grading or building permit is issued by providing the permitting agency with written evidence that the mitigation has been implemented. Mitigation may include but would not be limited to:

  ☐ Permanent preservation of off-site Important Farmland (State-defined Prime Farmland, Farmland of Statewide Importance, and Unique Farmland) of equal or better agricultural quality, at a ratio of at least 1:1 (preservation may include the purchase of agricultural conservation easement[s], purchase of credits from

an established agricultural farmland mitigation bank, and contribution of agricultural land or equivalent funding to an organization that provides for the preservation of farmland toward the ultimate purchase of an agricultural conservation easement), and

☐ Participation in any agricultural land mitigation program, including programs maintained by local governments that provide equal or more effective mitigation than the measures listed.

Mitigation Measure 3.2-1 would reduce potentially significant impacts to agricultural resources because plans would be incorporated into project design to minimize conversion of Farmland to other uses and compensation would be sought for permanent loss of Farmland. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that agricultural and forest resources impacts associated with the Proposed Regulations could be potentially significant and unavoidable.*

Impact 3.2-2: Conflict with Existing Zoning for Forestland, Timberland, or Timberland Zoned Timberland Production or Loss of Forestland from Conversion to Nonforest Use

Construction and operation of new or modified organic waste recovery facilities could result in significant temporary or permanent conversion of forestland or timberland and could conflict with zoning for forestland, timberland, or lands zoned as TPZ. The specific locations and scale of possible future facilities are not currently known; thus, the precise scale of conversion of forestland or timberland and conflicts with zoning cannot be determined at this time. Because there could be substantial conversion of forestland and timberland and conflicts with TPZ zoning, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.2-2: Implement Forest Resource Protection Measures during Construction and Operation of New or Modified Facilities Built in Response to the Proposed Regulations. As described in Section 1.2 of the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant impacts related to the location of specific facilities, including those on forestland or timberland. Mitigation measures to reduce impacts on forestland and timberland can and should be implemented by local jurisdictions with land use authority. Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval. *Therefore CalRecycle finds that mitigation measures to avoid or minimize impacts on temporary or permanent conversion of forestland or timberland and could conflict with zoning for forestland, timberland, or lands zoned as TPZ can and should be implemented by local jurisdictions with land use authority.*

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on forestland and timberland:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance responses would coordinate with local or State land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must comply with all applicable regulations as part of approval of a development project.

- Project proponents would implement all feasible mitigation identified during the environmental review to reduce or substantially lessen the potentially significant environmental impacts of the project. Examples of types of mitigation to protect Farmland include:

    - ☐ Avoid land protected as forestland and timberland through site selection or project design. Where feasible, project proponents should take into account the value of the forest, not only in terms of direct products, such as wood, but also as part of the watershed ecosystem, when selecting a project site. Wherever possible, nonprotected sites should be preferred and selected instead of protected sites; and

    - ☐ For projects that would result in permanent conversion of forestland, other forestland would be preserved in perpetuity through a conservation easement or by acquiring lands or contributing funds to a land trust or other agency (at a target ratio of 1:1, depending on the nature of the conversion and the characteristics of the forestland to be converted, to compensate for permanent loss).

Mitigation Measure 3.2-2 would reduce potentially significant impacts to forest resources because plans would be incorporated into project design to minimize adverse effects on forest land and compensation for permanent conversion would be acquired. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that forestland and timberland impacts associated with the Proposed Regulations could be potentially significant and unavoidable.*

Impact 3.2-3: Changes in the Existing Environment That, Because of Their Location or Nature, Indirectly Result in Conversion of Farmland to Nonagricultural Use or Conversion of Forestland to Nonforest Use

Construction of new or modified organic waste facilities built in response to the Proposed Regulations could result in activities that adversely affect the viability of surrounding agricultural or forest uses. Construction activities could therefore indirectly convert Farmland

to nonagricultural use or forestland to nonforest use. The specific locations and scale of possible future facilities are not known; thus, the precise extent and nature of indirect conversion of forestland and Farmland from construction activities cannot be identified at this time. Because there could be substantial indirect conversion of Farmland and forestland from implementation of the Proposed Regulations, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.2-3: Implement Agricultural and Forest Resource Protection Measures during Construction and Operation of New or Modified Facilities Built in Response to the Proposed Regulations. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant impacts related to the location of specific facilities, including those on agricultural and forest lands. *Therefore, CalRecycle finds that mitigation measures to reduce impacts on agricultural and forest resources can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on agricultural and forest resources:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance response would coordinate with local or State land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must comply with all applicable regulations as part of approval of a development project.

- Project proponents would implement all feasible mitigation identified during the environmental review to reduce or substantially lessen the potentially significant environmental impacts of the project. Examples of types of mitigation to protect Farmland and forest resources include:

    - ☐ Designing proposed projects to minimize, to the greatest extent feasible, the loss of the highest value Farmland;

    - ☐ For projects that will result in permanent conversion of Farmland, preserve in perpetuity other Farmland through acquisition of an agricultural conservation easement, or contributing funds to a land trust or other entity qualified to preserve Farmland in perpetuity (at a target ratio of 1:1, depending on the nature of the conversion and the characteristics of the Farmland to be converted, to compensate for permanent loss);

    - ☐ Avoid land protected as forestland and timberland through site selection or project design. Where feasible, project proponents should take into account the value of the forest, not only in terms of direct products, such as wood, but also as part of the watershed ecosystem, when selecting a project site. Wherever possible, nonprotected sites should be preferred and selected instead of protected sites; and

- ☐ For projects that would result in permanent conversion of forestland, other forestland would be preserved in perpetuity through a conservation easement or by acquiring lands or contributing funds to a land trust or other agency (at a target ratio of 1:1, depending on the nature of the conversion and the characteristics of the forestland to be converted, to compensate for permanent loss).

- Project proponents would comply with local plans, policies, ordinances, rules, and regulations regarding air quality–related emissions and associated exposure (e.g., construction-related fugitive particulate matter [PM] dust regulations, indirect source review, and payment into off-site mitigation funds).

- For projects located in PM nonattainment areas, project proponents shall prepare and comply with a dust abatement plan that addresses emissions of fugitive dust during construction and operation of the project.

- An invasive species management plan would be developed and implemented for any project the construction or operation of which could lead to the introduction or facilitation of invasive species establishment. The plan would ensure that invasive plant species and populations are kept below preconstruction abundance and distribution levels.

Mitigation Measure 3.2-3 would reduce potentially significant impacts to agricultural and forest resources because plans would be incorporated into project design to minimize adverse effects on Farmland and forest land. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs.
The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that agricultural and forest resources impacts associated with the Proposed Regulations could be potentially significant and unavoidable.*

Air Quality

Finding and Explanation

Impact 3.3-1: Short-Term Construction-Related Emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$

Construction of organic waste recovery facilities under the Proposed Regulations would result in ground-disturbing activities and require use of heavy-duty equipment. These activities would generate emissions of ROG, NOX, PM10, and PM2.5¬ that could exceed local air districts' thresholds of significance. Construction-generated emissions of criteria air pollutants and precursors would be potentially significant.

The EIR includes Mitigation Measure 3.3-1: Implement All Feasible On- and Off-Site Mitigation Measures to Reduce Construction-Generated Air Pollutants to Below a Lead Agency–Approved Threshold of Significance. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to include permit conditions regulating air quality. Lead agencies would evaluate a project's construction emissions against the applicable threshold of significance developed by a lead agency and/or air district. In cases where these thresholds are exceeded, mitigation measures to reduce construction-generated air pollutants can and should be implemented by local jurisdiction with permitting authority. Site-specific, project impacts and mitigation measures would be identified during a project's local review process. A proposed project would be approved by a local government and/or the applicable air district as conditions of approval. *Therefore, CalRecycle finds that mitigation measures to mimimize or avoid short-term construction-related emissions impacts can and should be implemented by local jurisdictions with land use authority and local air districts.*

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on construction-generated air pollutants:

- Project proponents shall apply for, secure, and comply with all appropriate air quality permits for project construction from the local agencies with air quality jurisdiction and from other applicable agencies, if appropriate, prior to construction mobilization.

- Project proponents shall comply with the CAA and the CAAA (e.g., New Source Review and Best Available Control Technology criteria, if applicable).

- Project proponents shall comply with local plans, policies, ordinances, rules, and regulations regarding air quality–related emissions and associated exposure (e.g., construction-related fugitive PM dust regulations, indirect source review, and payment into off-site mitigation funds).

- For projects located in PM nonattainment areas, project proponents shall prepare and comply with a dust abatement plan that addresses emissions of fugitive dust during construction of the project.

- Project proponents shall apply EPA Tier 3 or 4 emissions standards for projects found to generate exhaust NOX emissions in exceedance of an applicable threshold of significance.
- Project proponents shall use all feasible biodiesel-, combined natural gas–, and electricity-powered heavy-duty equipment for projects that generate emissions in exceedance of an applicable threshold.

- Project proponents shall implement idling and speed restrictions on project sites.

Mitigation Measure 3.3-1 would reduce construction-related air emission because requirements would be placed on fuels, equipment, and other construction-related activities during development or renovation of individual facilities. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects.

Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that construction-related air emissions could be potentially significant and unavoidable.*

Impact 3.3-2: Long-Term Operational Emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$

Operation of organic waste recovery facilities under the Proposed Regulations would result in reductions of ROG, NOX, PM10, and PM2.5 associated with the diversion of organic materials from landfills to facilities with the capacity to implement strategies to reduce such emissions. However, AD and composting facilities, and other organic waste recovery facilities, would also generate air pollution from the on- and off-road mobile sector. On-road vehicles (e.g., refuse and other collection trucks, commute-related automobiles) accessing organic waste recovery facilities would generate emissions of criteria air pollutants and precursors. New emissions could occur at AD and composting facilities either from diesel engine grinders, flaring of biogas or both, which could contribute to an exceedance of an air quality standard. These emissions could surpass the applicable thresholds of significance of a local air district and lead to adverse health impacts related to exposure of criteria air pollutants. Therefore, operation-related air quality impacts would be potentially significant.

The EIR includes Mitigation Measure 3.3-2: Implement All Feasible On- and Off-Site Mitigation Measures to Reduce Operation-Related Air Pollutants to Below a Lead Agency–Approved Threshold of Significance. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to include permit conditions regulating air quality. Lead agencies would evaluate a project's operational emissions against the applicable threshold of significance developed by a lead agency and/or air district. *In cases where these thresholds are exceeded, CalRecycle finds that mitigation measures to reduce operation-related air pollutants can and should be implemented by local jurisdictions with permitting authority and applicable air districts.* Site-specific, project impacts and mitigation measures would be identified during a project's local review process. A proposed project would be approved by a local government and/or the applicable air district as conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on operation-related air pollutants:

- Project proponents shall comply with the CAA and CAAA (e.g., New Source Review and Best Available Control Technology criteria, if applicable).

- Project proponents shall comply with local plans, policies, ordinances, rules, and regulations regarding air quality–related emissions and associated exposure (e.g., indirect source review, vehicle idling limitations, and payment into off-site mitigation funds).

- Project applicants shall establish a requirement pertaining to the use of biogas for electricity and facility-related vehicles.

- Project applicants shall establish a maximum rate at which flaring may occur at a facility.

- Project applicants whose projects would generate criteria pollutants and ozone precursors in exceedance of an applicable threshold shall conduct air dispersion modeling if feasible.

- Project applicants whose projects would introduce substantial transportation emissions to an air basin or county in nonattainment for any of the NAAQS or CAAQS shall:

  - quantify mobile-source emissions of criteria air pollutants and ozone precursors,

  - prepare a report demonstrating the necessity of such transportation activity,

  - require the use of zero or near-zero on-road heavy-duty trucks that access future facilities, and

  - prepare a Voluntary Emissions Reduction Target (VERA) with the applicable district.

Mitigation Measure 3.3-2 would reduce operations-related air emission because requirements would be placed on individual facilities. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that operations-related air emissions could be potentially significant and unavoidable.*

Impact 3.3-4: Exposure of Sensitive Receptors to TAC Emissions

Construction of organic waste recovery facilities built in response to the Proposed Regulations would generate short-term emissions of diesel PM; however, emissions would be temporary. Given the timeline established by SB 1383, construction phasing likely would not exceed 5 years (i.e., it would be operational by 2025). Operation of organic waste recovery facilities under the Proposed Regulations would result in reductions in emissions of TACs as compared to existing conditions at landfills. TACs generated by the reasonably foreseeable organic waste recovery facilities would constitute a stationary source and would be subject to the permitting requirements set by the appropriate air district. However, it is foreseeable that emissions of diesel PM could result in localized air quality impacts from the operational of diesel-powered on- and off-road equipment. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.3-4: Conduct a Health Risk Assessment and Implement On-Site TAC-Reducing Mitigation Measures. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to include permit conditions regulating air quality. Lead agencies would evaluate a project's operational

emissions against the applicable threshold of significance developed by a lead agency and/or air district. *In cases where these thresholds are exceeded, CalRecycle finds that mitigation measures to reduce operation-related air pollutants can and should be implemented by local jurisdiction with permitting authority.* Site-specific, project impacts and mitigation measures would be identified during a project's local review process. A proposed project would be approved by a local government and/or the applicable air district as conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on operation-related air pollutants.

In cases where TAC emission thresholds are exceeded, future project proponents should conduct an HRA prior to commencing operation. The HRA should be prepared pursuant to the most recent guidance published by OEHHA. The HRA should estimate TAC emissions from both existing and proposed TAC sources including on- and off-site mobile and stationary sources. The HRA should determine the maximum incremental increase in cancer risk from the long-term operation of organic waste recovery facilities. Future project proponents should evaluate this incremental increase against an applicable threshold of significance as determined by the relevant air district. In cases where the incremental increase exceeds these thresholds, on-site mitigation shall be applied. The following are operation-related mitigation measures that are typically applied to projects on site to reduce TAC emissions:

- Project proponents shall install diesel particulate filters or implement other CARB-verified diesel emission control strategies for heavy-duty equipment.

- Project proponents shall apply EPA Tier 3 or 4 emissions standards to off-road heavy-duty equipment.

- Project proponents shall use haul trucks with on-road engines instead of off-road engines for on-site hauling.

- Project proponents shall establish an electricity supply and use electric powered equipment instead of diesel-powered equipment if feasible.

- Project proponents shall apply on-road diesel PM mitigation measures consistent with CARB's Diesel Certification Program.

- Project proponents shall utilize renewable natural gas to power on-road vehicles accessing future project sites.

Mitigation Measure 3.3-4 would reduce TAC emission because requirements would be placed on fuels, equipment, and other sources of TAC emissions. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that TAC emissions could be potentially significant and unavoidable.*

Impact 3.3-5: Exposure of Sensitive Receptors to Odors

Implementation of the Proposed Regulations would require the operation of new and expanded organic waste recovery facilities throughout the state. Adverse odors could be generated by activities performed at these facilities, including the handling of feedstock materials and the off-gassing of odors generated during the decomposition of organic materials. Finished compost applied to agricultural and other land uses could also create objectionable odors. Odor impacts related to the Proposed Regulations would be potentially significant.

The EIR includes Mitigation Measure 3.3-5a: Comply with Appropriate Local Land Use Plans, Policies, and Regulations and Mitigation Measure 3.3-5b: Prepare an Odor Impact Minimization Plan or Odor Management Plan.

Regarding Mitigation Measure 3.3-5a, as described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would require compliance with appropriate local land use plans, policies, and regulations. *Therefore, CalRecycle finds that local agencies can and should require individual projects to be consistent with appropriate local land use plans, policies, and regulations, including any applicable setbacks or buffer zones around sensitive land uses for potentially odiferous processes, as part of project approval requirements.*

Regarding Mitigation Measure 3.3-5b: Prepare an Odor Impact Minimization Plan or Odor Management Plan, pursuant to 14 CCR 17863.4 and 17896.31, CalRecycle finds that future project proponents of compost and AD facilities shall prepare an OIMP to mitigate adverse odor impacts as a condition of approval. Project proponents of other organic waste recovery facilities (e.g., MRFs and rendering facilities) not subject to 14 CCR 17863.4 or 17896.31 shall develop and implement an Odor Management Plan that includes odor control strategies similar to those that would be included in an OIMP, such as the following possible strategies:

- Prepare a list of potential odor sources.
- Identify and describe the most likely sources of odor.
- Identify the potential for, probable intensity of, and frequency of odor from likely sources.
- Prepare a list of odor control technologies and management practices that could be implemented to minimize odor releases. These management practices shall entail the establishment of, but shall not be limited to, the following criteria:
    - ☐ Require that substrate hauled to facilities is within sealed containers.
    - ☐ Provide enclosed, negative-pressure buildings for indoor receiving and preprocessing.
    - ☐ Treat collected odiferous air in a biofilter or air scrubbing system.

- ☐ Establish a time limit for on-site retention of undigested substrates (e.g., substrates must be digested within 24 hours of reaching a site).
- ☐ Combine organic feedstocks with coarse, dry building amendments to aerate feedstock.
- ☐ Blend fresh organic feedstocks with finished compost, or apply a compost blanket of finished compost to fresh piles.
- ☐ Manage the delivery schedule to facilitate the prompt handling of odorous substrates.
- ☐ Handle digestate within enclosed buildings and/or directly pump it to sealed containers for transportation.
- ☐ Identify a protocol for monitoring and recording odor releases.
- ☐ Identify a protocol for reporting and responding to odor releases.

Implementation of Mitigation Measures 3.3-5a and 3.3-5b would reduce odor impacts because appropriate actions would be taken to minimize the potential for odor generation and mechanisms would be in place to respond to odors if they were created. However, except for compost and AD facilities, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs.

The authority to review site-specific, project-level impacts and require project-level mitigation at other organic waste recovery facilities besides compost and AD lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion for these facilities and finds that odor impacts at organic waste recovery facilities outside of CalRecycle and LEA odor jurisdiction could be potentially significant and unavoidable. However, CalRecycle finds that odor impacts at compost and AD facilities within the jurisdiction of CalRecycle and LEAs are expected to be mitigated to less than significant through OIMPs.*

Archaeology

Finding and Explanation

Impact 3.4-1: Substantial Adverse Change in the Significance of Built Historical Resources

Development of new or expanded organic waste recovery facilities to comply with SB 1383 requirements could occur on lands that contain built historical resources. Because proposed individual development projects have the potential to significantly affect historical resources on a regional and localized level, thereby eliminating important examples of periods of California's history, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.4-1: Survey and Redesign or Avoid Significant Historical Resources. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce impacts on historical resources. *Therefore, CalRecycle finds that mitigation measures to reduce potential impacts on historical resources can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on historical resources:

- Applicants of projects shall identify and evaluate all historic-age (over 45 years in age) buildings and structures that are proposed to be removed and modified as part of the Proposed Regulations. This will include preparation of a historic structure report and evaluation of resources to determine their eligibility for recognition under federal, State, or local criteria. The evaluation shall be prepared by an architectural historian, or historical architect meeting the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Professional Qualification Standards. The evaluation shall comply with State CEQA Guidelines Section 15064.5(b) and, if federal funding or permits are required, with Section 106 of the NHPA of 1966 (16 U.S. Code Section 470 et seq.).

- If resources eligible for inclusion in the NRHP, CRHR, or Local Official Register of Historic Resources are identified, an assessment of impacts on those resources shall be included in the report, as well as detailed measures to avoid impacts. If avoidance of a significant architectural/built environment resource is not feasible, additional mitigation options shall include, but not be limited to, specific design plans for historic districts or plans for alteration or adaptive reuse of a historical resource that follows The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring & Reconstructing Historic Buildings.

Implementation of Mitigation Measure 3.4-1 would reduce impacts associated with historic resources because it would require the performance of professionally accepted and legally compliant procedures for the avoidance of known historic resources and the evaluation of previously undocumented historic resources. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts to historical resources would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that impacts on historical resources associated with the Proposed Regulations could be potentially significant and unavoidable.*

Impact 3.4-2: Disturbance to Unique Archaeological Resources

The reasonably foreseeable development projects associated with the Proposed Regulations could be located on properties that contain known or unknown archaeological resources, and ground-disturbing activities could result in discovery of or damage to previously undiscovered archaeological resources as defined in State CEQA Guidelines Section 15064.5. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.4-2: Avoid Potential Effects on Archaeological Resources. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce impacts on archaeological resources. *Therefore, CalRecycle finds that mitigation measures to reduce potential impacts on archaeological resources can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on archaeological resources:

- Applicants for projects that include any ground disturbance shall retain a qualified archaeologist to conduct archaeological surveys of the site. The applicant shall follow recommendations identified in the survey, which may include activities such as subsurface testing, design and implementation of a Worker Environmental Awareness Program, construction monitoring by a qualified archaeologist, avoidance of sites, or preservation in place.

- All projects shall include the following requirements as a condition of approval: If evidence of any prehistoric or historic-era subsurface archaeological features or deposits are discovered during construction-related earth-moving activities (e.g., ceramic shard, trash scatters, lithic scatters), all ground-disturbing activity in the area of the discovery shall be halted and the county shall be notified immediately. A qualified archaeologist shall be retained to assess the significance of the find. If the find is a prehistoric archaeological site, the appropriate Native American group shall be notified. If the archaeologist determines that the find does not meet NRHP or CRHR standards of significance for cultural resources, construction may proceed. If the archaeologist determines that further information is needed to evaluate significance, a data recovery plan shall be prepared. If the find is determined to be significant by the qualified archaeologist (i.e., because the find is determined to constitute either a historical resource or a unique archaeological resource), the archaeologist shall work with the project applicant to avoid disturbance to the resources. If complete avoidance is not feasible in light of project design, economics, logistics, or other factors, accepted professional standards in recording any find, including submittal of the standard California Department of Parks and Recreation (DPR) Primary Record forms (Form DPR 523) and location information to the relevant information center, shall be followed.

Implementation of Mitigation Measure 3.4-2 would reduce potentially significant impacts on archaeological resources because discovered resources would be avoided, moved, recorded, or otherwise treated appropriately, in accordance with pertinent laws and regulations. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs.The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that impacts on archaeological resources associated with the Proposed Regulations could be potentially significant and unavoidable.*

Biological Resources

Finding and Explanation

Impact 3.5-1: Adverse Effect on Special-Status Species, Either Directly or through Habitat Modifications

It is reasonably foreseeable to expect new or expanded facilities to be located at or near existing landfills or material recovery facilities, or in urban locations zoned for industrial or heavy commercial use, so in most circumstances, adverse effects to sensitive species would not occur. However, the potential to intrude into or displace natural habitat supporting special-status species cannot be fully dismissed, such as for project sites on urban/rural edges. Potential localized effects on special-status species could occur, including the removal or conversion of vegetation and habitat necessary for species breeding, feeding, dispersal, or sheltering. Development of organic wasted recovery facilities could result in the disturbance or loss of special-status plant and wildlife species and habitats, if they are located in areas of natural habitat. Therefore, this impact would be categorized as potentially significant.

The EIR includes Mitigation Measure 3.5-1: Incorporate Avoidance and Minimization Measures Consistent with Resource Agency Regulatory Requirements. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce impacts on archaeological resources. *Therefore, CalRecycle finds that mitigation measures to reduce potential impacts on special status species can and should be implemented by local jurisdictions with land use authority.* If a proposed facility project site consists entirely of developed uses, fully disturbed land, non-native vegetation, or a combination thereof and natural habitat is not present, the proponent will report these conditions during the project's local government review process. No additional biological resource assessment or facility design responses are required. If a proposed facility project site contains or is likely to contain natural habitat, the agency with approval authority over the project must require project sponsors to incorporate avoidance and minimization measures into the facility design, so that natural habitats and special-status species do not experience significant adverse effects. If avoidance and minimization are not feasible, the proponent will coordinate with the appropriate resources agency to identify site-specific biological resource assessments to define the design features or other actions necessary to protect sensitive species and habitats, or compensate for habitat or species effects that cannot be avoided. The assessment shall be conducted by qualified professionals

pursuant to adopted protocols and agency guidelines and applied to project regulatory compliance. The project proponent shall comply with the mitigation requirements needed to achieve permit approval by the appropriate resource agency, so that special-status species are adequately protected or adequate compensatory actions are included.

Implementation of Mitigation Measure 3.5-1 would result in avoided or substantially reduced impacts associated with adverse effects on special-status species, because these mitigation measures would require avoidance or minimization of project-related disturbance or loss of special-status species and natural habitat or compensatory actions, consistent with resources agencies responsible for regulatory permits. Implementation of the mitigation measure at a project level would reduce the impacts on special-status species. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and Local Enforcement Agencies (LEAs). The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that impacts on special-status species resulting from the development of new and expanded facilities associated with the proposed regulation could be potentially significant and unavoidable.*

Impact 3.5-2: Substantial Adverse Effects on Riparian Habitat, Federally Protected Wetlands, or Other Sensitive Natural Communities through Direct Removal, Filling, Hydrological Interruption, or Other Means

It is reasonably foreseeable to expect new or expanded facilities to be located at or near existing landfills or material recovery facilities, or in urban locations zoned for industrial or heavy commercial use, so in most circumstances, adverse effects to sensitive habitats would not occur. However, the potential to intrude into or displace sensitive habitats cannot be fully dismissed, such as for project sites on urban/rural edges. Potential impacts could include disturbance or loss of jurisdictional waters, including wetlands; loss or degradation of stream or wetland function; incremental degradation of wetland habitats; and fragmentation of streams and wetlands. Development of organic wasted recovery facilities could result in the disturbance or loss of sensitive habitats, if those resources are located at future project sites. Therefore, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.5-2: Avoid or Minimize Impacts, or Compensate for Unavoidable Loss of Sensitive Habitat. If a proposed facility project site contains or is likely to contain sensitive habitats, the agency with approval authority over the project shall require project sponsors to incorporate avoidance and minimization measures into the facility design, so that natural habitats and special-status species do not experience significant adverse effects. In keeping with the “no net loss” policy for wetlands and other waters, project designs shall be configured, whenever possible, to avoid wetlands and other waters and avoid disturbances to wetlands and riparian corridors to preserve both the habitat and the overall ecological functions of these areas. Projects shall minimize ground disturbances and transportation project footprints near such areas to the extent practicable. Where avoidance of jurisdictional waters is not feasible, project sponsors must minimize fill and the use of in-water construction methods, and place fill only with express permit approval from the

appropriate resources agencies (e.g., USACE, RWQCB, CDFW, BCDC, and CCC) and in accordance with applicable existing regulations, such as the CWA or local stream protection ordinances. Project sponsors can arrange for compensatory mitigation subject to approval by the USACE, RWQCB, CDFW, BCDC, and CCC, as applicable. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce impacts on sensitive habitats. *Therefore, CalRecycle finds that mitigation measures to reduce potential impacts on sensitive habitats can and should be implemented by local jurisdictions with land use authority.*

Implementation of Mitigation Measure 3.5-2 would result in avoided or substantially reduced impacts associated with adverse effects on sensitive habitats, because these mitigation measures would require avoidance or minimization of project-related disturbance or loss of sensitive habitat or compensatory actions, consistent with resources agencies responsible for regulatory permits. Implementation of the mitigation measure at a project level would reduce the impacts on sensitive habitats. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that impacts on sensitive habitats resulting from the development of new and expanded facilities associated with the proposed regulation could be potentially significant and unavoidable.*

Geology and Soils

Impact 3.7-6: Destruction of a Unique Paleontological Resource or Site

Many unique and important fossils have been found in California. Future projects implemented in response to the proposed regulation would require ground disturbance, which could harm or destroy undiscovered paleontological resources. It is likely that many projects would be co-located at existing solid waste-handling facilities or wastewater treatment plants or built on previously disturbed sites. However, individual development projects have the potential to alter or destroy unique paleontological resources. Therefore, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.7-6: Survey and Redesign or Avoid Significant Paleontological Resources. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant impacts on paleontological resources. *Therefore, CalRecycle finds that mitigation measures to reduce potential impacts on paleontological resources can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on paleontological resources:

- Applicants of projects that require grading or excavation in previously undisturbed areas shall retain a qualified geologist or paleontologist to identify and evaluate site geology relative to the potential for the presence of unique paleontological resources. The level of screening or identification efforts and the resulting documentation should consider the type and extent of excavation and proximity to fossil bearing strata.

- All projects shall include the following requirements as a condition of approval: If evidence of any paleontological features or deposits are discovered during construction-related earth-moving activities (e.g., vertebrate, invertebrate, or plant fossils, traces, and/or trackways), all ground-disturbing activity in the area of the discovery shall be halted and the county shall be notified immediately. A qualified paleontologist shall be retained to assess the significance of the find. If the paleontologist determines that the find does not constitute a significant or unique resource, construction may proceed. If the paleontologist determines that further information is needed to evaluate significance, a data recovery plan shall be prepared. If the find is determined to be significant by the qualified paleontologist, they shall work with the project applicant to avoid disturbance to the resources. If complete avoidance is not feasible in light of project design, economics, logistics, or other factors, accepted professional standards for documentation of any find and recovery of important fossils shall be followed.

Implementation of Mitigation Measure 3.7-6 would reduce potentially significant impacts to paleontological resources because discovered resources would be avoided, moved, recorded, or otherwise treated appropriately, in accordance with pertinent laws and regulations. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that paleontological resources impacts associated with the proposed regulation could be potentially significant and unavoidable.*

Greenhouse Gas Emissions and Climate Change

Finding and Explanation

Impact 3.8-2: Short-Term Construction-Generated GHG Emissions

Implementation of the proposed regulation would result in the construction of new or expanded organic waste recovery facilities to accommodate the increase in organic waste recovery. The construction of such facilities would generate GHG emissions that could exceed applicable local agency thresholds of significance. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.8-2: Implement All Feasible On- and Off-Site Mitigation Measures to Reduce Greenhouse Gas Emissions to below a Lead Agency–

Approved Threshold of Significance. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to include permit conditions regulating GHG emissions. Lead agencies would evaluate a project's construction emissions against the applicable threshold of significance developed by a lead agency and/or air district. *Therefore, CalRecycle finds that in cases where these thresholds are exceeded, mitigation measures to reduce construction-generated GHG emissions can and should be implemented by local jurisdiction with permitting authority.* Site-specific, project impacts and mitigation measures would be identified during a project's local review process. A proposed project would be approved by a local government and/or the applicable air district as conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts on construction-generated GHG emissions:

- Project proponents shall require its contractors to restrict the idling of on- and off-road diesel equipment to no more than 5 minutes while the equipment is on-site.

- Project proponents of new facilities shall implement waste, disposal, and recycling strategies (i.e., 10 percent recycled content for Tier 1 and 15 percent recycled content for Tier 2) in accordance with the voluntary measures for non-residential land uses contained in Section A5.405 of the 2016 CALGreen Code or in accordance with any update to these requirements in future iterations of the CALGreen Code in place at the time of project construction.

- Project proponents of new facilities shall achieve or exceed the enhanced Tier 2 target for nonresidential land uses of recycling or reusing 80 percent of the construction waste as described in Section A5.408 of the 2016 CALGreen Code or in accordance with any update to these requirements in future iterations of the CALGreen Code in place at the time of project construction.

- Project proponents shall require all diesel-powered, off-road construction equipment meet EPA's Tier 3 or Tier 4 emissions standards as defined in 40 CFR 1039 and comply with the exhaust emission test procedures and provisions of 40 CFR Parts 1065 and 1068. This measure can also be achieved by using battery-electric off-road equipment as it becomes available. This measure is consistent with Mitigation Measure 3.3-1 in Section 3.3, "Air Quality."

- Project proponents shall implement a program that incentivizes construction workers to carpool, and/or use public transit or electric vehicles to commute to and from the project site.

Implementation of Mitigation Measure 3.8-2 would reduce short-term construction-related GHG emissions because it would require implementation of construction best practices and use of equipment that meets stringent emissions standards However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree

to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that construction-related GHG emissions could be potentially significant and unavoidable.*

Hazards

Finding and Explanation

Impact 3.9-2: Significant Hazards to the Public or Environment from Disturbance to Known Hazardous Material Sites

Soil disturbance caused by construction associated with new or modified organic waste–handling facilities built in response to the proposed regulation would have the potential to expose workers, the public, and the environment to risks associated with existing hazardous materials if they are present within the project site. As described in Section 3.9.2, "Environmental Setting," many hazardous waste sites are located throughout the state. Facilities implemented under the proposed regulation could be constructed across the state, and it is unknown at this time if any of those facilities would be located at a known hazardous waste site. Disturbance of contaminated sites could result in the exposure of the public and environment to health hazards from existing hazardous materials. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.9-2: Identify and Avoid Known Hazardous Waste Sites during Construction of New or Modified Facilities Built in Response to the Proposed Regulations. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant impacts related to the exposure of workers, the public, or the environment to hazardous materials. *Therefore, CalRecycle finds that mitigation measures to reduce potential hazardous materials impacts can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts from exposure to hazardous materials:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance responses would coordinate with local or State land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must comply with all applicable regulations as part of approval of a development project.

- During the environmental review process for a new or modified organic waste–handling facility project that would require ground-disturbing activities under the proposed regulation, the project proponent would coordinate with the landowner or other entity with jurisdiction (e.g., city or county) to determine whether hazardous materials are known to have been used, stored, or disposed of on the project site. The

project proponent would also conduct a DTSC EnviroStor web search (https://www.envirostor.dtsc.ca.gov/public/) and consult DTSC's Cortese List to identify any known contamination sites on the project site. If the site of a new or modified organic waste facility is known to contain hazardous waste or is included on the DTSC Cortese List and identified as containing potential soil contamination that has not been cleaned up and deemed closed by DTSC, the area of contamination will be avoided, if feasible, or remediated before ground-disturbing activities begin within the site boundaries. If it is determined through coordination with landowners or after review of the Cortese List that no potential or known contamination is located on a project site, the project may proceed as planned.

- Before final project design and any earth-disturbing activities, the applicant or agencies responsible would conduct a Phase I Environmental Site Assessment (ESA). The Phase I ESA would be prepared by a Registered Environmental Assessor or other qualified professional to assess the potential for contaminated soil or groundwater conditions at the project site—specifically in the area proposed for construction of new or modified organic waste–handling facilities.
  If no contaminated soil or groundwater is identified or if the Phase I ESA does not recommend any further investigation, then the project applicant or LEA would proceed with final project design and construction.
  If existing soil or groundwater contamination is identified, and if the Phase I ESA recommends further review, the applicant or agencies responsible would retain a Registered Environmental Assessor to conduct follow-up sampling to characterize the contamination and to identify any required remediation that shall be conducted consistent with applicable regulations before any earth-disturbing activities. The environmental professional would prepare a report that includes, but would not be limited to, description of activities performed for the assessment, a summary of anticipated contaminants and contaminant concentrations at the proposed construction site, and recommendations for appropriate handling of any contaminated materials during construction.

- Project proponents would implement all feasible mitigation identified during the environmental document review to reduce or substantially lessen the potentially significant environmental impacts of the project.

Implementation of Mitigation Measure 3.9-2 would reduce impacts related to the exposure of the public or environment to significant hazards because the project proponent would search hazardous waste databases, prepared a Phase I ESA, and implement all feasible mitigation measures identified during the environmental review process. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that short-term, construction-related impacts associated with release of hazardous materials resulting from the development of new facilities associated with the proposed regulation could be potentially significant and unavoidable.*

Impact 3.9-5: Safety Hazard from Siting an Organic Waste–Handling Facility within 5 Miles of an Airport

Organic waste–handling facilities would process food materials that could attract increased numbers of scavenging birds to sites located near airports, thus increasing the risk of bird strikes for aircraft departing or approaching any nearby airports. FAA Advisory Circular 150/5200-33B recommends a minimum distance of 5 miles between various land uses practices that attract wildlife, such as MSWLFs, and airports. Because the locations of compost and AD facilities are not explicitly governed by the same locational requirements established by federal regulations for MSWLFs to minimize wildlife hazards, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.9-5: Reduce Safety Hazards from Siting an Organic Waste–Handling Facility within 5 Miles of an Airport. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant impacts related to conflicts with aircraft. *Therefore, CalRecycle finds that Mitigation measures to reduce potential impacts can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measure can and should be required by agencies with project approval authority to avoid or minimize impacts related to conflicts with aircraft:

- For any compost or AD facility proposed within 5 statute miles of an airport's air operations area, the project proponent shall notify the FAA Regional Airports Division office and the airport operator of the proposal for a new compost or AD facility as early in the process as possible. Such compost or AD facilities with any open air (outdoor) activities must receive an FAA Determination of No Hazard before project approval.

Implementation of Mitigation Measure 3.4-1 would reduce impacts associated wildlife attractants near airports because compost or AD facilities with any open air (outdoor) activities must receive an FAA Determination of No Hazard before project approval. However, adoption and implementation of this mitigation measure are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that impacts related to conflicts with aircraft resulting from the development of new facilities associated with the proposed regulation could be potentially significant and unavoidable.*

Impact 3.9-6: Impaired Implementation of or Physical Interference with an Adopted Emergency Response Plan or Emergency Evacuation Plan

New or modified organic waste–handling facilities and operations of collection routes would be spread throughout the state. Operation of new or modified organic waste–handling facilities and collection routes would not be located such that there would be physical interference with an adopted emergency response plan or emergency evacuation plan. Construction activities related to new or modified organic waste–handling facilities would be short term and temporary; however, heavy equipment accessing project sites from public roads during construction and installation of biogas pipelines in public rights-of-way has the potential to impair implementation of emergency response and evacuation plans. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.9-6: Implement Measures during Construction Activities to Avoid Impairment of an Emergency Response Plan or Emergency Evacuation Plan. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant impacts related to the impaired implementation of emergency response and evacuation plans. *Therefore, CalRecycle finds that mitigation measures to reduce potential impacts can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.
The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts related to impaired implementation of emergency response and evacuation plans:

- Proponents of new facilities constructed as a result of reasonably foreseeable compliance responses would coordinate with local or State land use agencies to seek entitlements for development. This process would involve the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must comply with all applicable regulations as part of approval of a development project.

- Project proponents would implement all feasible mitigation identified during the environmental review to reduce or substantially lessen the potentially significant impacts from constructing the project related to impairment of an emergency response plan or emergency evacuation plan.

- The contractor(s) would obtain any necessary road encroachment permits before pipelines are installed within the existing roadway right-of-way. As part of the road encroachment permit process, the contractor(s) would submit a traffic safety/traffic management plan (for work in the public right-of-way) to the agencies having jurisdiction over the affected roads. The plan would likely include, but would not necessarily be limited to, the following elements.

    - ☐ Develop circulation and detour plans to minimize impacts on local street circulation. Use haul routes that minimize truck traffic on local roadways to the extent possible. Use flaggers and/or signage to guide vehicles through and/or around the construction zone.

- ☐ To the extent feasible, and as needed to avoid adverse impacts on traffic flow, schedule truck trips outside of peak morning and evening commute hours.

- ☐ Limit lane closures during peak traffic hours to the extent possible. Restore roads and streets to normal operation by covering trenches with steel plates outside of allowed working hours or when work is not in progress.

- ☐ Limit, where possible, pipeline construction work zones to a width that, at a minimum, maintains alternating one-way traffic flow past the construction zone.

- ☐ Coordinate with facility owners or administrators of sensitive land uses, such as police and fire stations, hospitals, and schools. Provide advance notification to the facility owner or operator of the timing, location, and duration of construction activities.

- ☐ To the maximum extent feasible, maintain access to private driveways located within construction zones.

- ☐ Coordinate with the local public transit providers so that bus routes or bus stops in work zones can be temporarily relocated as the service provider deems necessary.

Implementation of Mitigation Measure 3.9-6 would reduce impacts associated with the potential to impair implementation of emergency response and evacuation plans because it would require the contractor(s) to submit a traffic safety/traffic management plan (for work in the public right-of-way) to the agencies having jurisdiction over the affected roads. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that short-term, construction-related impacts on implementation of emergency response and evacuation plans resulting from the development of new facilities associated with the proposed regulation could be potentially significant and unavoidable.*

Hydrology and Water Quality

Finding and Explanation

Impact 3.10-3: Violation of Any Water Quality Standards or Waste Discharge Requirements or Conflict with the Implementation of a Water Management Plan through Land Application of Uncomposted Organic Materials

The proposed regulation limits the volume of organic waste that can be sent to landfills, which could result in increased land application of materials that are difficult to compost. When properly managed, land application can be accomplished without adversely affecting water quality. However, illegal land application has been documented as a threat to water quality

and could increase with implementation of the proposed regulation. Because the proposed regulation could indirectly result in an increase in illegal land application of organic wastes, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.10-3: Develop Land Application Enforcement Strategy. CalRecycle shall develop an enforcement strategy for preventing illegal land application. This strategy includes regulatory requirements that specify that LEAs shall directly observe any material at designated solid waste facilities destined for land application. If physical contaminants, based on visual observation, clearly exceed the limits for legal land application in 14 CCR Section 17852(a)(24.5)(A)(1), the LEA may require the operator to further process such material as a preventative measure to avoid illegal land application. Enforcement strategies may additionally include encouragement of secondary processing to reduce the volume of compost overs, community outreach regarding the potential adverse effects of illegal land application, identification of sites (such as remote canyons) that may be more at risk for illegal dumping of organic wastes, development of avenues of receiving public complaints, and coordination with LEAs and RWQCB enforcement staff.

Implementation of Mitigation Measure 3.10-3 would reduce potentially significant impacts to water quality from improper and illegal application of organic wastes by CalRecycle developing a strategy to combat illegal land application activities including regulatory measures to prevent contaminants in compostable material transported from solid waste facilities or operations contributing to illegal land application. *CalRecycle finds that for solid waste facility operators subject to an LEA permit that are sending material to land application, this impact would be reduced to a less-than-significant level.* However, for individual projects that are reasonably foreseeable under the proposed regulation, but not subject to LEA permits, CalRecycle does not have the authority to require local implementing agencies to adopt the above mitigation measures, and it is ultimately the responsibility of a lead agency with land use authority to determine and adopt mitigation. *Therefore, although it is reasonably anticipated that impacts to hydrologic resources would be less than significant as a result of local government actions and increased enforcement, for projects not subject to an LEA permit, CalRecycle does not have authority to enforce provisions on local governments. Thus, CalRecycle finds that water quality impacts from illegal organic material application to land could be potentially significant and unavoidable.*

Noise

Finding and Explanation

Impact 3.12-1: Short-Term Construction-Related Noise Effects

Implementation of the proposed regulation would result in the construction of new or expanded waste recovery facilities and related infrastructure that would generate temporary construction-related noise. Based on noise emissions levels from typical types of equipment used during construction and accounting for typical usage factors of individual pieces of equipment activities and attenuation, on-site construction could result in construction noise that exceeds noise standards established in local general plans and noise ordinances or that are substantially greater than the ambient noise environment. Thus, implementation of reasonably foreseeable compliance responses could result in the generation of short-term construction noise in excess of applicable standards or result in a substantial increase in

ambient noise levels at nearby sensitive receptors, and exposure to excessive vibration levels. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.12-1: Implement Noise-Reduction Measures during Project Construction. As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant construction-related noise. *Therefore, CalRecycle finds that mitigation measures to reduce construction-related noise impacts can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize impacts related to construction noise:

- Proponents of new facilities constructed under the reasonably foreseeable compliance responses would coordinate with local or State land use agencies to seek entitlements for development including the completion of all necessary environmental review requirements (e.g., CEQA). The local or State land use agency or governing body must comply with applicable regulations and would approve the project for development.

- Based on the results of project level environmental review, project proponents would implement all feasible mitigation identified in the environmental document to reduce or substantially lessen the environmental impacts of the project The definition of actions required to mitigate potentially significant noise impacts may include the following; however, any mitigation specifically required for a new or modified facility would be determined by the local lead agency

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- Ensure noise-generating construction activities (including truck deliveries, pile driving, and blasting) are limited to the least noise-sensitive times of day (e.g., weekdays during the daytime hours) for projects near sensitive receptors.

- Consider use of noise barriers, such as berms, to limit ambient noise at property lines, especially where sensitive receptors may be present.

- Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment.

- All construction equipment used would be adequately muffled and maintained.

- Consider use of battery-powered forklifts and other facility vehicles.

- Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby sensitive receptors or shielded.

- Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and address operational safety issues. Keep truck

operations to the quietest operating speeds. Advise about downshifting and vehicle operations in sensitive communities to keep truck noise to a minimum.

- Use noise controls on standard construction equipment; shield impact tools.
- Consider use of flashing lights instead of audible back-up alarms on mobile equipment.
- Install mufflers on air coolers and exhaust stacks of all diesel and gas- driven engines.
- Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.
- Contain facilities within buildings or other types of effective noise enclosures.
- Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.

Implementation of Mitigation Measure 3.12-1 would reduce construction noise and vibration impacts because it would require project sponsors to implement best practices at construction sites to minimize these effects. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that short-term, construction-related noise impacts resulting from the development of new facilities associated with the proposed regulation could be potentially significant and unavoidable.*

Impact 3.12-2: Long-Term Operation Effects on Noise

Implementation of the proposed regulation would result in the operation of new or expanded waste recovery facilities and related infrastructure that would generate on-going noise associated with these facilities. Based on noise emissions levels from typical types of equipment used during the operation of organic waste recovery facilities and accounting for typical usage factors of individual pieces of equipment and attenuation, the operation of these facilities could result in noise that exceeds noise standards established in local general plans and noise ordinances or that is substantially greater than the ambient noise environment. Thus, implementation of reasonably foreseeable compliance responses could result in the generation of long-term operational noise in excess of applicable standards or result in a substantial increase in ambient noise levels at nearby sensitive receptors, and exposure to excessive vibration levels. This impact would be potentially significant.

The EIR includes Mitigation Measure 3.12-2: Implement Noise-Reduction Measures during Project Operation. *CalRecycle shall require LEAs to incorporate the following conditions into permits, as appropriate, based on the facts at the proposed facility site, before approving a solid waste facility permit or registration permit for organic waste recovery projects developed*

to comply with the proposed regulation. For individual projects not under the jurisdiction of LEAs, site-specific, project impacts and mitigation would be identified during a project's local review process. Therefore, CalRecycle finds that mitigation measures to reduce potential impacts can and should be implemented by these local jurisdictions with land use authority. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

Recognized practices that can and should be required to avoid and/or minimize noise include:

- All powered equipment shall be used and maintained according to manufacturer's specifications.
- Public notice of activities shall be provided to nearby noise-sensitive receptors of potential noise-generating activities.
- All motorized equipment shall be shut down when not in use.
- Idling of equipment or trucks shall be limited to 5 minutes.
- All heavy equipment and equipment operation areas shall be located as far as possible from nearby noise-sensitive land uses (e.g., residential land uses, schools, hospitals, places of worship, recreation resources).
- To achieve an interior noise level less than applicable noise standards, the installation of double pane windows and building insulation shall be offered to residences directly affected by significant operational noise levels generated by the noise-generating facility. If accepted by the homeowner, the project applicant shall provide the funding necessary to install the appropriate noise- reducing building improvements.

Implementation of Mitigation Measure 3.12-2 would reduce operational noise and vibration impacts because it would require project sponsors to implement best practices at organic waste recovery facilities to minimize these effects. *For projects subject to an LEA permit, CalRecycle finds that these impacts would be reduced to a less-than-significant level.* However, for individual projects that are reasonably foreseeable under the proposed regulation, but not subject to LEA permits, CalRecycle does not have the authority to require local implementing agencies to adopt the above mitigation measures, and it is ultimately the responsibility of a lead agency with land use authority to adopt the mitigation described herein, which it can and should do, or consider and adopt other feasible mitigation measures. *Therefore, although it is reasonably anticipated that operational noise and vibration impacts would be less than significant as a result of local government land use approvals, CalRecycle does not have the authority to enforce provisions on local governments where there is no LEA permit, so CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that operational noise impacts could be potentially significant and unavoidable.*

Transportation

Finding and Explanation

Impact 3.13-1: Construction-Related Traffic Impacts

Reasonably foreseeable compliance responses associated with the proposed regulation include development of new and expanded facilities to process organic waste, including compost, anaerobic digestion, and chip and grind facilities, among others. Depending on the number of trips generated and the location of new facilities, implementation could conflict with applicable programs, plans, ordinances, or policies (e.g., performance standards, congestion management) or result in hazardous design features and emergency access issues from road closures, detours, and obstruction of emergency vehicle movement, especially from project-generated heavy-duty truck trips. Thus, this impact would be potentially significant.

The EIR includes Mitigation Measure 3.13-1: Prepare a Transportation Construction Plan As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant construction-related transportation impacts. *Therefore, CalRecycle finds that mitigation measures to reduce construction-related transportation impacts can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority to avoid or minimize construction traffic impacts:

Prepare a transportation construction plan for all phases of construction.

- Establish a construction phasing/staging schedule and sequence that minimizes impacts of a work zone on traffic by using operationally sensitive phasing and staging throughout the life of the project.

- Identify arrival/departure times for trucks and construction workers to avoid peak periods of adjacent street traffic and minimize traffic effects.

- Identify optimal delivery and haul routes to and from the sites to minimize impacts on traffic, transit, pedestrians, and bicyclists.

- Identify appropriate detour routes for bicycles and pedestrians in areas affected by construction.

- Coordinate with local transit agencies, and provide for relocation of bus stops and ensure adequate wayfinding and signage to notify transit users.

- Preserve emergency vehicle access.

- Implement public awareness strategies to educate and reach out to the public, businesses, and the community concerning the project and work zone (e.g., brochures and mailers, press releases/media alerts).

- Provide a point of contact for residents, employees, property owners, and visitors to obtain construction information and submit comments and questions.

- Provide current and/or real-time information to road users regarding the project work zone (e.g., changeable message sign to notify road users of lane and road closures and work activities, temporary conventional signs to guide motorists through the work zone).

- Encourage construction workers to use transit, carpool, and other sustainable transportation modes when commuting to and from the sites.

Implementation of Mitigation Measure 3.13-1 would reduce impacts from construction-related traffic because as part of the planning, design, and engineering for future projects, the implementing agency would implement measures to minimize overall disruptions and ensure that overall circulation in a project area is maintained to the extent possible, with particular focus on ensuring transit, pedestrian, and bicycle connectivity. Implementation of the mitigation measure at a project level would reduce the impacts from construction activities on the transportation system and traffic. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local land use and/or permitting agencies for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain. *Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that short-term, construction-related traffic impacts resulting from the development of new and expanded facilities associated with the proposed regulation could be potentially significant and unavoidable.*

Impact 3.13-4: Reasonably Anticipated Increase in VMT

Under the proposed regulation, the amount of organic waste delivered to landfills would be reduced through changes to the way food waste and other organic materials are collected and handled. Organic waste would be transported to a qualifying recovery facility, such as a food recovery center, compostable material handling facility, AD facility, a recycling center, or a biomass conversion facility. In some cases, material produced at recovery facilities would be delivered to customers for use as a soil amendment or for direct land application after chipping and grinding. A greater quantity of edible food would also be collected and distributed to people rather than being disposed in a landfill. While collection modifications would not substantially change the amount of travel needed, the post-recovery activities would be reasonably expected to increase vehicle trips within the state and, therefore, vehicle miles traveled (VMT). There is uncertainty in predicting the location of new and expanded organic waste recovery facilities and the locations where rescued food and finished compost would be distributed. Thus, recognizing the expectation of increased travel and uncertainty in future predictions, to meet CEQA's mandate of good-faith disclosure and to not risk understating potential future VMT impacts in light of the uncertainties, this impact is classified as potentially significant.

Vehicular travel associated with implementation of the Proposed Regulations is related to changes in the way that organic waste is processed. The distance required to accommodate new trips is related to the location of facilities that would receive and process the waste, as well as the location where processed compost, other byproducts of organic waste recovery

facilities, and recovered food would be distributed. According to the SB 743 Technical Advisory, potential mitigation measure that can reduce VMT include actions such as improved alternate transportation facilities, land use planning, and disincentives to driving (e.g., roadway pricing, limited parking availability). Land use decisions, including those related to the siting of organic waste recovery facilities, are subject to local jurisdictions (PRC Section 40059). The locations where compost, other byproducts, and recovered food would be distributed is contingent on various influences outside of CalRecycle's control, including local land uses and economics. Other mitigation measures, such as providing improved alternative transportation facilities and establishing disincentives to driving, would not have sufficient nexus with the impact or offer rough proportionality to the impact to be considered feasible mitigation (Dolan v. City of Tigard, 512 U.S. 374 [1994]; Nollan v. California Coastal Commission, 483 U.S. 8825 [1987]). However, the department is noting a potential mitigation measure that jurisdictions could employ to mitigate vehicle miles traveled.

The EIR includes Mitigation Measure 3.13-4: Employ Remote Monitoring Technology to Measure Remaining Container Capacity and Monitor Container Contamination
As described in the EIR, the authority of CalRecycle and LEAs is statutorily limited. They do not have authority to require implementation of mitigation measures that would reduce potentially significant increases in vehicle miles traveled. *Therefore, CalRecycle finds that mitigation measures to reduce VMT can and should be implemented by local jurisdictions with land use authority.* Site-specific, project impacts and mitigation would be identified during a project's local review process. A proposed project would be approved by a local government and potentially another permitting agency that can apply conditions of approval.

The following mitigation measures can and should be required by agencies with project approval authority for waste collection services to avoid or minimize VMT:

- Require placement of remote monitoring technology in collection containers or on collection vehicles that are capable of identifying underused container capacity (e.g. whether a bin is partially full) and the presence of contaminants in a container, on a regular basis or when a container is tipped in into a collection vehicle.

- Establish practices to identify optimization of vehicle routes in a manner that reduces the collection of partially full containers and/or informs customers that could down size their container size.

- Identify opportunities to reduce VMT by limiting the collection of contaminated containers in a manner that commingles the container contents with clean material.

- Encourage businesses and residents to right-size their container to reduce unnecessary vehicle trips.

Implementation of Mitigation Measure 3.13-4 at a project level would reduce the impacts from VMT increases. However, adoption and implementation of these mitigation measures are beyond the authority of CalRecycle and LEAs. The authority to review site-specific, project-level impacts and require project-level mitigation lies primarily with local jurisdictions for individual projects. Consequently, although it is reasonable to expect that impacts would be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, the degree to which another agency would require mitigation is uncertain.

Therefore, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds that reasonably anticipated increased to VMT associated with compliance with the proposed regulation could be potentially significant and unavoidable.

Cumulatively Considerable Impacts

The Proposed Regulations are applicable statewide over a long-term future horizon to achieve organic waste disposal reduction and edible food recovery targets. Consequently, the impact analyses for the resource topics in Chapter 3 of the EIR are programmatic in that they address the statewide context of impacts in a general manner, rather than describe potential site-specific or project-specific effects. The EIR contains a description and analysis of a series of reasonably foreseeable compliance actions that are part of a statewide program. The descriptions of mitigation measures presented in Chapter 3 of the EIR provide generally recognized methods to reduce significant and potentially significant impacts but do not offer details related to specific project locations or design characteristics, because the locations and project plans cannot be known at this time. As a result of the statewide context of the environmental analysis, the impact conclusions and mitigation measures in the sections of Chapter 3 are easily integrated into cumulative impacts because they describe the potential effects associated collectively with the full range of reasonably foreseeable compliance responses related to implementing the Proposed Regulations.The analysis of cumulative impacts for the Proposed Regulations included a summary of the cumulative impacts found for each resource area and a conclusion regarding whether the Proposed Regulations could result in a cumulatively considerable contribution to a significant cumulative impact.

The EIR concluded the Proposed Regulations could result in a cumulatively considerable contribution to significant cumulative impacts to agriculture and forestry resources, air quality, archeological, historical, and tribal cultural resources, biological resources, geology and soils, hazards and hazardous material, hydrology and water quality, noise, and transportation. *While suggested mitigation is provided within the respective resource areas of the EIR analyses that could address the contribution of the Proposed Regulations to each of these potentially cumulatively considerable impacts, CalRecycle finds that because these adverse impacts are potential indirect impacts associated with the compliance responses of covered entities, the authority to determine site- or project-specific mitigation is within the purview of jurisdictions with land use approval and permitting authority, such as city or county governments.* Public agencies with authority can and should implement the identified measures to the degree feasible. Because the ability and authority to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with the EIR does not attempt to address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts to this resource. *Consequently, while cumulative impacts could be reduced to a less-than-significant level by land use and/or permitting agency conditions of approval, CalRecycle takes a conservative approach in its post-mitigation significance conclusion and finds the cumulatively considerable contribution of the Proposed Regulations to existing significant cumulative impacts to agriculture and forestry resources, air quality, archeological, historical, and tribal cultural resources, biological resources, geology and soils, hazards and hazardous material, hydrology and water quality, noise, and transportation to be potentially significant and unavoidable.*

Findings on Alternatives to the Project

In addition to the No-Project Alternative, the EIR considered a reasonable range of alternatives that could reduce or eliminate the significant adverse environmental impacts associated with the Proposed Regulations, while accomplishing most of the project objectives.

CalRecycle finds the alternatives analysis is sufficient to inform CalRecycle and the public regarding the tradeoffs between the degree to which the alternatives could reduce environmental impacts and the corresponding degree to which the alternatives could achieve the project objectives.

Based upon a full evaluation of the alternatives, and the entirety of the record, CalRecycle finds that adoption and implementation of the Proposed Regulations is the most desirable, feasible, and appropriate action for achieving the objectives of the project, and CalRecycle rejects the other alternatives because they either fail to meet most project objectives, or are infeasible based on consideration of the relevant factors identified in the EIR and briefly described below:

Alternative 1: No Project Alternative

Under the No Project Alternative, no regulation would be adopted. Organic waste would not be diverted from landfills beyond that which occurs under existing conditions or planned programs, and the methane reduction goals of the SLCP strategy, and by extension the State's overall climate change targets, would not be met. It is not clear that CalRecycle has the legal authority to pursue the No Project Alternative. CalRecycle is legislatively mandated to develop regulations designed to reach the SB 1383 statewide disposal reduction and edible food recovery targets (Lara, Chapter 395, Statutes of 2016).

Under the No Project Alternative, the proposed regulation would not be adopted and there would therefore not be any changes to how compostable materials are collected, transported, and managed. Thus, because there would be no new development or other physical changes related to regulation, there would be no impacts under the No Project Alternative.

CalRecycle finds that under this alternative, the fundamental objectives associated with the Proposed Regulations to achieve the statutorily-mandated organic waste diversion goals in SB 1383 would not be achieved. Furthermore, as described in more detail in Section 2.7 of the EIR, "Anticipated Benefits of SB 1383 Regulations," diverting organic waste from landfills and into beneficial uses in accordance with the proposed regulation is expected to result in benefits to food insecurity, soil health, and availability of biogas and reduce landfill disposal. CalRecycle also finds that the No Project Alternative would not result in the methane emission or other air quality emission reductions that would occur through the reduction of organic waste disposal associated with the proposed regulation.

Accordingly, alternatives that do not achieve the SB 1383 mandates are inconsistent with CalRecycle's legislative direction. Therefore, the No Project Alternative would not meet the most basic objectives of the project. Furthermore, adoption of the No Project Alternative does not create an environmentally advantageous outcome because although the potentially significant impacts related to the compliance responses of the Proposed Regulations as

identified in the EIR would not occur, the beneficial impacts related to methane emission reductions would also not be realized. For these reasons, CalRecycle rejects this alternative.

Alternative 2: Limit the Types of Facilities, Operations, and Activities that Process or Use Organic Waste in a Way that Constitutes a Reduction of Landfill Disposal

Article 2 (14 CCR Section 18983.1[b]) of the Proposed Regulations distinguishes what constitutes landfill disposal and recovery for the purposes of organic waste handling. Organic waste recovery involves redirecting organic waste that otherwise would be disposed of in a landfill to activities or facilities with processes that reduce GHGs in accordance with the proposed regulation (14 CCR Section 18983.2).

With Alternative 2, Article 2 of the proposed regulation would be revised to include only compost facilities, AD facilities, and recycling centers as the types of facilities, operations, and activities that would constitute a reduction in landfill disposal or recovery. Article 2 would be revised to exclude references to biomass conversion facilities; material used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill; land application; animal feed; and other operations. The edible food recovery targets and requirements included in the proposed regulation would be the same as under the proposed regulation.

Alternative 2 would continue to target the largest components (an estimated 70 percent) of the recoverable organic waste stream (food, paper, and green materials); thus, CalRecycle finds that the project objectives related to reductions in landfill disposal could be accomplished with implementation of this alternative. Alternative 2 could also include a revision to the definition of organic waste in the proposed regulation (Section 18982[a][46]) to exclude carpet and textiles, which are not suitable for handling at compost facilities, AD facilities, or traditional paper recycling facilities.

Under Alternative 2, implementation of the regulation would require the development and operation of a similar number and type of new and expanded facilities to support management of compostable materials. Impacts associated with construction of new facilities under Alternative 2 would be similar to those that would occur under the proposed regulation and would consist of impacts related to aesthetics; agricultural and forestry resources; air quality; archeological, historical, and tribal cultural resources; biological resources; energy; geology and soils; hazards and hazardous materials; land use and planning; noise; transportation; utilities and service systems; and wildfire.

Under Alternative 2, the management of compostable materials would be different than under the proposed regulation. By excluding biomass conversion facilities; material used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill; land application; animal feed, and other operations, CalRecycle finds that this alternative would avoid water quality impacts associated with land application.

However, CalRecycle finds that Alternative 2 could increase VMT because the array of management options available to regulated entities would be limited. Limiting the number of existing activities that constitute recovery would increase the likelihood that material would need to travel greater distances to be managed at the smaller number of qualifying facilities. For example, use of a nearby animal feed opportunity, biomass conversion facility, or

property for land application would not count as recovery, so the material may need to be hauled to a more distant compost facility. Implementing Alternative 2 would ultimately increase the cost of compliance for regulated entities because it would limit the potential marketplace of viable recovery options. This type of limitation would not directly impede the state's ability to achieve the purpose of the regulations, but it could increase the cost of compliance, which may delay when compliance is achieved.

Because Alternative 2 is worse than the Proposed Regulation as it relates to GHG emission reduction, it would be less likely to meet the project objectives associated with reducing the level of statewide disposal of organic waste and reductions in methane emissions than the proposed regulation. In addition, potential increases in the cost of compliance possibly delay compliance with regulatory objectives. Based on these considerations, CalRecycle rejects this alternative.

Alternative 3: Expand List of Targeted Commercial Edible Food Generators

Article 10 (Section 18991 et seq.) of the Proposed Regulations requires jurisdictions to implement and oversee an edible food recovery program. In addition, commercial edible food generators must establish documented arrangements with food recovery organizations or services and meet record-keeping requirements to support their compliance with Article 10.

With Alternative 3, the Article 10 list of targeted commercial edible food generators (14 CCR 18991.3) would be expanded. Section 18982(a)(73) of the Proposed Regulations defines a Tier One commercial edible food generator as a (a) supermarket, (b) grocery store with a total facility size equal to or greater than 10,000 square feet, (c) food service provider, (d) food distributor, or (e) wholesale food vendor. A Tier Two commercial edible food generator (Section 18982[a][74]) is defined as a (a) restaurant with 250 or more seats or a total facility size equal to or greater than 5,000 square feet, (b) hotel with an on-site food facility and 200 or more rooms, (c) health facility with an on-site food facility and 100 or more beds, (d) large venue, (e) large event, (f) state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet, or (g) local education agency with an on-site food facility.

With Alternative 3, the Article 10 definition of targeted commercial edible food generators would be expanded to target all restaurants, all hotels and health facilities with on-site food facilities, and all state agencies with a cafeteria, regardless of their size. By expanding the list of targeted generators, Alternative 3 would be expected to increase the volume of edible food recovered and potentially reduce the overall food insecurity rate in California, as well as the amount of food that must be managed as waste.

Alternative 3 would potentially reduce the number of new or expanded organic waste recovery facilities constructed to meet compostable materials disposal reduction goals. The level of impact associated with the construction of new facilities under Alternative 3 would be less than described for the proposed regulation for the following issue areas: aesthetics; agricultural and forestry resources; air quality; archaeological, historical, and tribal cultural resources; biological resources; hazards and hazardous materials; hydrology and water quality; noise; transportation; and utilities and service systems. Impacts associated with Alternative 3 that would be similar to those that would occur under the proposed regulation

consist of impacts related to: air quality, energy, geology and soils, GHG emissions and climate change, land use and planning; and wildfire.

Under Alternative 3, there could be less long-haul transport of compostable materials diverted from landfills and postprocessed materials distributed throughout the state for land application. However, VMT may not decrease depending on the location of available food in relation to food recovery services and organizations. In addition, with fewer compost and AD facilities, localized odor impacts would decrease.

The additional sources that would be subject to the food recovery requirements are smaller entities that generate less food per day than the large sources subject to the proposed regulation. Although the cost of compliance may be similar for these entities, CalRecycle finds that the costs would be disproportionately higher because the smaller entities typically have smaller revenue streams than the larger entities that would be subject to the regulation (e.g., hotels, supermarkets).

The Proposed Regulations phase in the requirements on larger entities to target the entities that would contribute the most to the food recovery target. Further, by targeting the entities in the proposed regulation, the project allows those entities to pilot recovery methods and technology to help bring innovation in this sector to market. CalRecycle finds that including smaller entities under Alternative 3 would increase the cost of the project without necessarily increasing the likelihood of achieving the food recovery target. These entities could be phased in at a later date as a part of a subsequent regulation, when compliance may be cheaper as more efficient recovery methods are established by larger entities. Based on these considerations, CalRecycle rejects this alternative.

STATEMENT OF OVERRIDING CONSIDERATIONS

CalRecycle expects that many of the significant adverse impacts identified in the EIR will be avoided or mitigated; however, since uncertainty exists as to the extent of mitigation that other agencies will require at the site- and project-specific level, CalRecycle is conservatively considering the impacts to be significant and unavoidable. CalRecycle finds that despite the potential for adverse environmental impacts associated with the Proposed Regulations, other benefits of this regulatory action are determined to be overriding considerations that warrant approval of the Proposed Regulations and outweigh and override its unavoidable significant impacts. As described in the EIR, organic wastes make up about 67 percent of the waste stream. Redirecting organic waste from landfills and into beneficial uses in accordance with the proposed regulation is expected to result in environmental, public health, and economic benefits. Each benefit set forth below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every unavoidable impact. These benefits are described at length in the Initial Statement of Reasons and EIR, which are hereby incorporated by reference. CalRecycle has identified the following potential beneficial outcomes of the proposed regulation:

- Reducing GHG Emissions. Removing organic waste from landfills prevents the creation of methane from the anaerobic breakdown of the material. This methane can work its way out of the landfill as fugitive emissions, and these emissions currently represent at least 21 percent of the state's methane emissions annually. Achieving these waste reductions targets would reduce an increasing amount of GHG emissions,

ultimately achieving annual reductions of at least 4 million metric tons of CO2 equivalents (MMTCO2e) annually by 2030. In addition, 1 year of waste reduction avoids 14 MMTCO2e of emissions over the lifetime of waste decomposition.

- Feeding the Hungry. Some of the currently landfilled organic waste is recoverable edible food that can provide food to millions of food-insecure people in California. The U.S. Department of Agriculture defines food insecurity as a household-level economic and social condition of limited or uncertain access to adequate food (USDA 2018). The overall food insecurity rate in California is nearly 13 percent, meaning that approximately one out of every eight Californians does not know where their next meal will come from. The rate for children is much higher; approximately one in five children in California may go to bed hungry each night (California Association of Food Banks 2017). This places California with the 19th highest child food insecurity rate in the nation. Edible food recovery programs resulting from the proposed regulation would increase the recovery of edible food for human consumption, resulting in decreased food insecurity and healthier communities.

- Creating Valuable Materials:

  - ☐ Soil Amendments. Soil amendments would result in sequestering carbon from the atmosphere, improving the health of agricultural soils including increased soil water holding capacity, preventing soil erosion, and reducing the need for synthetic fertilizers.

  - ☐ Biogas and Transportation Fuels. Anaerobic digestion of organic materials can support the State's efforts to obtain at least 50 percent of its electricity from renewable resources, aid in reducing the carbon intensity of transportation fuels, and displace fossil natural gas consumption. Biogas can be made into RNG that can be used in medium- and heavy-duty trucks in lieu of diesel fuel.

- Employment. Implementation of the proposed regulation would result in the development of new and/or expanded organic waste recovery facilities. The development of these facilities would generate new jobs in California.

- Health Benefits. According to the World Health Organization (WHO), SLCPs are GHGs that contribute to ambient levels of ozone and particulate matter less than or equal to 2.5 micrometers in diameter and are directly associated with heart and pulmonary disease, respiratory infections, and lung cancer (WHO 2019). WHO has noted that reducing GHG emissions might also provide health benefits, such as improved diets and more opportunities for safe travel and physical activity. The proposed regulation could also result in the reduced exposure of farmworkers to pesticides and fertilizers, the use of which can be reduced when compost is used in agricultural activities.

- Benefits to California Businesses. CalRecycle expects businesses to benefit in numerous ways, including but not limited to:

  - ☐ New job creation associated with organic materials collection and recycling.

- ☐ Increased revenues from sales of products, including recycled-content paper, cardboard, compost, and renewable gas. For example, application of compost can help farmers improve soil health, reduce water use, and reduce use of pesticides and fertilizers, resulting in lower costs to produce higher yields of produce. Production of renewable gas can reduce reliance on foreign oil; one study estimates that existing organic waste could supply more than 15 percent of our current natural gas demand if converted to biogas (Southern California Gas Company 2016).

- ☐ Increased revenues from sales of equipment.

- ☐ Reduced landfill disposal collection costs.

- ☐ Fewer lost workdays and increased productivity due to health benefits (e.g., reduced incidence of asthma, reduced exposure of farmworkers to pesticides and fertilizers), which may also help businesses improve recruitment and retention of workers.

- Increasing Soil Health. Adding compost to the California's soils is seen as a critical piece of increasing soil health, as well as sequestering carbon. Healthy soil is usually defined by an increase in soil organic matter, which is lost during cultivation. One of the main benefits of adding compost (or digestate) to soils is an increase in organic matter. In addition, emerging work at UC Berkeley and UC Davis seeks to quantity the carbon sequestration benefits of adding compost (or digestate) to working lands.

LOCATION AND CUSTODIAN OF THE RECORD

The documents and other materials that constitute the record of proceedings on which these findings are based are located at 1001 I Street Sacramento, CA 95814. The custodian for these documents is the CalRecycle Legal Office. This information is provided in compliance with Public Resources Code § 21081.6(a)(2) and 14 CCR § 15091(e).