

Department of Resources Recycling and Recovery
Recycling and Disposal Reporting System Regulatory Permanent
Regulations

FINAL STATEMENT OF REASONS

Update to the Initial Statement of Reasons

The Initial Statement of Reasons (ISOR), initially proposed regulations, and Documents Relied Upon were noticed to the public via the Notice of Proposed Action (NOPA) on January 27, 2023. The ISOR contained a description of the rationale for the initially proposed action. The ISOR and Documents Relied Upon that were identified in the ISOR are incorporated by reference herein. The NOPA, ISOR, Documents Relied Upon, and initially proposed regulations were made available to the public on January 27, 2023.

CalRecycle accepted comments on the initially proposed action in writing from January 27, 2023, through March 15, 2023, and at a public hearing held on March 15, 2023. CalRecycle considered all comments received and updated the initially proposed regulations in response to comments.

CalRecycle notified the public of the updated proposed regulations and made the accompanying documents available for public review on July 12, 2023. The notice included a detailed description of each change, the rationale for each change, and an updated economic and fiscal impact statement. CalRecycle accepted comments on the updated proposed action through July 27, 2023. CalRecycle considered all comments received during this second comment period and decided against further changes to the proposed regulations based on comments received.

However, during this review, CalRecycle identified a few additions and one deletion that were not clearly indicated within the regulatory text of the original 45-day notice or the first 15-day notice. CalRecycle also found a few grammatical errors. CalRecycle decided to fix these oversights and held a second 15-day comment period from November 8 through 27, 2023. CalRecycle considered all comments received during this third comment period and decided against further changes to the proposed regulations based on comments received.

Updates to the ISOR, based on changes CalRecycle made to the regulations after the 45-day comment period, are discussed in the rest of this Final Statement of Reasons (FSOR).

Problem

The currently proposed regulations address the same problems as discussed in the ISOR.

The Problem section of the ISOR remains unchanged except to correct a misstatement in the following paragraph:

AB 881 concerns plastics that are exported out of California. Such plastics have historically been considered diversion from disposal. However, plastics that are exported have uncertain ends. They may be disposed instead of recycled, especially the plastics that are more difficult to recycle and market: polyvinyl chloride (resin code #3), low-density polyethylene (#4), polystyrene (#6), and other plastic (#7). Accordingly, disposal numbers for a jurisdiction may be underestimated if that jurisdiction is the source of exported plastics. AB 881 addresses this problem by classifying the export of mixed plastic materials as disposal (California Public Resources Code [PRC], Section 41781.4), **except** where the mixed plastic **contains only** ~~excludes~~ the more recyclable plastics: polyethylene terephthalate (resin code #1), high-density polyethylene (#2), and polypropylene (#5). AB 881 further requires CalRecycle to collect the jurisdictions of origin for such export (PRC section 41821.5(b)(4)). Current RDRS reporting requirements (CCR, title 14, sections 18815.1 through 18815.13), however, do not cover this information.

Purpose and Necessity

Overall, the currently proposed regulations have the same purpose and necessity as described for the originally proposed regulations in the ISOR, with one caveat relating to the changes that CalRecycle made to the originally proposed regulations pursuant to comments received during the 45-day comment period. The purpose of these changes was to address concerns from interested parties regarding meaning and feasibility of the regulations. The changes were necessary because interested parties highlighted several areas where the meaning could be more explicit or where the proposed regulations would be impractical or infeasible for the regulated community to implement, and CalRecycle agreed with these concerns. Specific sections in the rest of this FSOR explain CalRecycle's rationale for specific changes.

Specific Purpose and Necessity of the Regulations

This section provides the purpose and necessity for each proposed regulatory change that was made to the version of the regulations that was released in the first 45-day public notice (January 27 to March 15, 2023). The version of the regulations with these proposed changes was released in the first 15-day public notice (July 12 to July 27, 2023). The problems addressed by these changes are covered in the previous section, Problem.

Title 14, Sections 18815.2 – 18815.12

Within Title 14, Article 9.25, changes were made to sections 18815.2 through 18815.9. Changes were not made to 18815.1 and 18815.10 through 18815.13.

Title 14.	Natural Resources
Division 7.	Department of Resources Recycling & Recovery
Chapter 9.	Planning Guidelines and Procedures for Preparing and Revising Countywide Integrated Waste Management Plans
Article 9.25.	Recycling and Disposal Reporting System.
Sections	18815.2 through 18815.9

Section 18815.2

Subsection (a)(10.5)

The regulatory language has been changed to update “self-hauled residential mixed recycling” to “self-hauled mixed recycling.” The word “residential” was removed in response to feedback received from interested parties during the 45-day public comment period, in which said parties expressed opposition to the separation of self-hauled material into residential versus commercial self-haul. Based on these comments, CalRecycle decided to remove the regulatory language splitting the self-haul source sector into residential and commercial, which is discussed later in this FSOR (e.g., subsection 18815.9(c)(1)(A)). Consequently, because a component of collection method is source sector, subsection 18815.2(a)(10.5)(A) was altered to remove the reference to “self-hauled residential” so that the collection method definition would not explicitly or implicitly require that self-hauled material be split into residential versus commercial.

Subsection (a)(22)(A) and (B)

In the 45-day notice, paragraph (22) was reorganized to have two subparagraphs, (A) and (B). The subparagraph labels, (A) and (B), were not underlined on the original 45-day or first 15-day notice regulatory text as added language to the original regulatory text. These labels should have appeared as “(A)” and “(B)”. The reorganization of paragraph (22) was discussed in the ISOR, which accompanied the original 45-day regulatory text.

Subsection (a)(25.5)

The regulatory language has been changed to explain that when determining the destination for an outflow of material, the material shall be considered sent to wherever the material was received by the recipient. This identified destination shall then be considered to be exported or not according to the definition of export in Public Resources Code 41781.4(c) and California Code of Regulations, Title 14,

Section 18815.2(a)(25.5). Note that this change does not alter the intended meaning of the definition of outflow relative to the originally proposed regulation. The purpose of this amendment is to clarify the intent of the definition.

Subsection (a)(38.4)

The purpose and necessity of this subsection is the same as that provided in the ISOR.

In addition, CalRecycle notes that the definition of mixed plastic excludes mixtures that “comprise only high-density polyethylene, polypropylene, polyethylene terephthalate, or a combination of those three resin types.” This exclusion does not include low-density polyethylene (resin code #4) in order to be consistent with statute and harmonize the specificity of PRC section 41821.5(b)(4) with the more generalized list in PRC 41781.4(b)(1). Subsection (a)(43)

The regulatory language has been changed to update the definition of recycling in a few ways. First, the definition has been amended to clarify that the changes proposed in the initial notice (i.e., 18815.2(a)(43): “recycling shall also include all activities considered recycling for purposes of section 41821.5 of the Public Resources Code”) only apply for the “purposes of determining facilities’ reporting obligations under this article” (18815.2(a)(43)). The changes to the definition of recycling do not apply outside of RDRS. Second, the definition was altered to clarify that the recycling activities listed in subparagraphs (A) through (D) are meant to be examples of activities that may constitute recycling rather than an exhaustive list of all possible activities. Whether any given activity is considered recycling for the purposes of RDRS reporting depends on whether those activities meet the definition of recycling provided in section 18815.2(a)(43). These latter amendments do not change the effect of the originally proposed regulatory language and are for clarity only.

Subsection (a)(58)(D)

(a)(58)(D) CalRecycle received feedback from interested parties in opposition to the separation of self-haul residential versus self-haul commercial, which has been addressed through the proposed amendments to section 18815.2(a)(10.5). In line with this amendment, section 18815.2(a)(58)(D) is also being amended to remove the separation of self-haul into residential and commercial self-haul. In addition, CalRecycle removed the fourth category of source sector, “Reporting entity other than contract hauler or transfer/processor”. CalRecycle removed this category because interested parties objected to the other source sector change, interested parties found the fourth category confusing, and CalRecycle determined that the benefits provided by the fourth category alone (i.e., in absence of the split between self-haul residential and commercial) were not justified by the potential cost to affected parties. Thus, CalRecycle restored source sector to its original definition. Note that doing so required additional minor amendments to the regulatory language to correct grammar and punctuation.

Section 18815.3

Subsection (f), header

The phrase “and report as follows:” was not clearly indicated on the original 45-day or first 15-day notice regulatory text as added language to the original regulatory text. The addition should have appeared as “and report as follows:”. The purpose and necessity of the “and report as follows” addition is the same as described in the ISOR, section 18815.3(f), header.

Subsection (f)(1)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 (i.e., commencing 1 January 2025) and not 2024 Q4 (i.e., 1 October 2024). CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (g)

The word “closes” was not clearly indicated on the original 45-day or first 15-day notice regulatory text as deleted language from the original text. This deletion should have appeared as “~~closes~~”. CalRecycle is deleting the word “closes” due to the rest of the updates to subdivision (g). Edits to subdivision (g) clarify that this subdivision applies to inactivity and closure requests, and if the word “closes” is not deleted, then these edits do not make sense when read.

In addition, two sentences were not clearly indicated on the original 45-day or the first 15-day notice regulatory text as added language to the original regulatory text. The addition should have appeared as “In such request, the reporting entity shall demonstrate to the Department why their status should be changed to inactive or closed. If the Department determines that the reporting entity is inactive or the site is closed, then the Department shall grant the request.” The purpose of adding this sentence was to clarify that reporting entities must demonstrate to CalRecycle why they should be inactive or closed. This change is necessary to align requirements for inactivity and closure requests with the requirements for exemption requests (subsection 18815.3(h)) and because CalRecycle needs to be able to verify that entities are appropriately claiming inactivity or closure.

Subsection (n)(5)

The regulatory language has been changed to update the time to resolve inter-entity reporting issues. The originally proposed amendments required reporting entities to resolve such issues within 10 business days. The new changes allow entities to obtain an additional extension of up to 10 business days for those issues

to be resolved, based on a notification from the reporting entity to CalRecycle that lists the reasons why additional time is needed. The purpose of this amendment is to allow more time than the originally proposed time limit of 10 business days and is in response to feedback received by CalRecycle from interested parties during the 45-day public comment period.

Subsection (p)

The phrase "related to this notice" was not clearly indicated on the original 45-day and first 15-day notice regulatory text as added language to the original regulatory text. The addition should have appeared as "related to this notice". The purpose and necessity of the "related to this notice" addition are the same as discussed in the ISOR, section 18815.3(p).

Subsections (q)(1)

The regulatory language has been changed to clarify that multiple entities on the same site shall report together only as allowed in section 18815.3(d). This amendment clarifies the effect of existing regulations to better reflect the intended purpose of the regulation as originally promulgated.

Subsection (q)(2)(B)(iii)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Section 18815.4

Subsection (a)

The word "origin" was inappropriately underlined in the originally noticed regulatory text that was published for public comment during the 45-day public comment period. The purpose of this amendment is to remove the erroneous underline and to clarify that the word "origin" is already included in the existing regulations.

Subsection (d)(2)(G)

The regulatory language has been changed to update the reference from section 18815.9(l)(2) to 18815.9(l) to clarify that this reporting requirement starts in 2025 Q1 (i.e., commencing 1 January 2025), which is specified in (l). CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (d)(3)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Section 18815.5

Subsection (a)(3)(C)

The regulatory language has been changed to update the reference to section 18815.9(a)(3) to 18815.9(a)(1)(C). This amendment is necessary because subsection 18815.5(a)(3)(C) directs readers to a subsection of 18815.9(a), but due to changes to 18815.9(a), the appropriate subsection has changed from 18815.9(a)(3) to 18815.9(a)(1)(C). The changes to 18815.9(a) are detailed later in this FSOR and are in response to feedback received by CalRecycle during the 45-day public comment period.

Subsection (a)(4)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (h)(3)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Section 18815.6

Subsection (a)(2)(B)

The regulatory language has been changed to explain that designated waste and disaster debris are not assigned a source sector. Note that the new language is not a change from existing implementation of regulations. The purpose of this amendment is to align source sector regulations for disposal facilities and transfer/processors. For transfer/processors, source sector is collected only for solid waste (18815.5(a)(3)(B)).

Subsection (b)(2)(C)(iii)

The word “takes” is deleted from this proposed section. Deleting “takes” is necessary as its inclusion results in a grammatical error and introduces confusion in the meaning of this clause. The purpose of this change is to ensure that the proposed regulatory language conveys the correct meaning.

Subsection (b)(4)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (g)(3)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Section 18815.7

Subsection (a)(8)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (g)(2)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Section 18815.8

Subsection (a)(7)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (d)(1)

The “s” from “sections” is deleted as only one section is referenced in this paragraph. This deletion is a nonsubstantive change to the proposed language.

Subsection (d)(2)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Section 18815.9

Subsection (a)(1)(B)

Subsection (a)(1)(B) was updated to explain that recycling and composting facilities and operations, brokers, and transporters shall report material type for beneficial reuse according to subsection 18815.9(a)(2). This amendment was necessary because the originally proposed updates to subsections 18815.9(a)(1)(B) through (D) did not provide a method for non-disposal facilities to report material type for beneficial reuse. CalRecycle implemented this change in response to feedback received from interested parties during the 45-day public comment period.

Subsection (a)(1)(C)

Subsection (a)(1)(C) was changed to further explain the reporting of material type for beneficial reuse inflows and outflows. First, disposal facilities reporting inflows of materials that are actually used for beneficial reuse shall report material type according to subsection 18815.9(a)(3), whereas any entity (e.g., a transfer/processor) reporting inflows or outflows of potential beneficial shall report material type according to subsection 18815.9(a)(2). Second, subsection (a)(1)(C) clarifies that soil shall never be included in potential beneficial reuse tonnages because beneficial reuse does not include soil. These changes were necessary

because the originally proposed updates to subsections 18815.9(a)(1)(B) through (D) did not provide a method for non-disposal facilities to report material type for beneficial reuse, did not clarify which methods disposal facilities should use, and did not clarify requirements regarding soil and potential beneficial reuse. CalRecycle implemented these changes in response to feedback received from interested parties during the 45-day public comment period.

Subsection (a)(1)(D) and (a)(1)(D)(ii)

Subsection (a)(1)(D) and (D)(ii) were amended to clarify that contract haulers, transfer/processors, and disposal facilities shall refer to subsection 18815.9(a)(1)(C) when reporting material type for beneficial reuse. These changes were necessary to ensure that subparagraph (D) did not conflict with the updates to subparagraph (C), which were made in response to feedback received from interested parties during the 45-day public comment period.

Subsection (a)(2)(D), addition

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (a)(2)(E), addition

The regulatory language has been amended to explain that when any facility reports material type for green material for potential beneficial reuse, material type shall be reported just as "green material." This amendment was necessary because of the changes made subsection 18815.9(a)(1)(B) through (D), which have the effect that subsection 18815.9(a)(3) applies only to material actually used for beneficial reuse and not to material reported for potential beneficial reuse. Thus, because subsection 18815.9(a)(3) dictates that green material used for beneficial reuse be given a material type of green material, subsection 18815.9(a)(2) was amended to explain that green material for potential beneficial reuse shall also be assigned a material type of green material. This change was made in response to feedback received from interested parties during the 45-day public comment period.

Subsection (b)(3) through (b)(5)

In the originally proposed amended regulations, subsections 18815.9(b)(3) through (5) dictated the methods for determining origins for different scenarios (e.g., paragraph (3) governs how transfer/processors determine jurisdiction of origin for solid waste, whereas paragraph (5) governs how all entities determine jurisdiction of origin for exported mixed plastic waste). Based on feedback received from

interested parties during the 45-day public comment period, which questioned why different scenarios appeared to have different methods, CalRecycle deleted subsections 18815.9(b)(3.5) through (5) and generalized subsection 18815.9(b)(3) to apply whenever entities determine jurisdiction of origin for tons sent. These changes do not alter requirements relative to the proposed regulations. Instead, the amendments more concisely rephrase the regulatory language.

Subsection (c), header

Subsection 18815.9(c) provides the methods that reporting entities must use to determine source sector. In the originally proposed amended regulations, subsection 18815.9(c) allowed entities to use any method listed in the subdivision, except where a specific method was required by subsection 18815.9(c)(5) through (7). However, for reasons discussed later in this FSOR (subsection (c)(7), deletion), subsection 18815.9(c)(7) was deleted. It was therefore necessary to amend subsection 18815.9(c) such that it referred to only subsections 18815.9(c)(5) through (6).

Subsection (c)(1)(A), (c)(1)(D), (c)(1)(D)(i), (c)(1)(D)(ii), (c)(2)(A), (c)(2)(D), (c)(4), and (c)(6)

In the originally proposed amended regulations, entities were required to separate the self-haul source sector into residential versus commercial self-haul starting in 2024 Q4. CalRecycle received several comments that doing so would be difficult and inaccurate. Given these stakeholder concerns, CalRecycle removed the requirement that the self-haul source sector be split into residential and commercial components. Note that doing so also required removing the regulatory language that dictated different source sector methods based on quarter (before, versus on or after 2024 Q4).

Subsection (c)(5)

The regulatory language has been changed to explain that designated waste and disaster debris are not assigned a source sector. Note that the new language is not a change from existing interpretation of regulations. The purpose of this amendment is to align source sector methods regulations with reporting regulations for disposal facilities (subsection 18815.6(a)(2)(B)) and transfer/processors (18815.5(a)(3)(B)).

Subsection (c)(7), deletion

In the originally proposed amended regulations, subsection 18815.9(c)(7) required entities to assign residual disposal and material received from certain reporting entity types to a fourth source sector category, "reporting entity other than contract hauler and transfer/processor." CalRecycle deleted this subsection (i.e., deleted the

new fourth category of source sector) because of feedback received from interested parties during the 45-day public comment period, in which said parties found the fourth category confusing. CalRecycle also determined that the benefits provided by the fourth category alone (i.e., in absence of the split between self-haul residential and commercial) were not justified by the potential cost to affected parties.

Subsection (c)(7), renumbering

This paragraph was renumbered from (8) to (7) because the original paragraph (7) was deleted.

Subsection (d)(4)

The regulatory language has been changed to explain that designated waste and disaster debris are not assigned a source sector. Note that the new language is not a change from existing implementation of regulations. The purpose of this amendment is to align the source sector methods regulations for contract haulers with the other source sector methods and reporting regulations (subsections 18815.6(a)(2)(B), 18815.5(a)(3)(B), and 18815.9(c)(5)).

Subsection (l)

The regulatory language has been changed to state that the originally proposed amendments will take effect in 2025 Q1 and not 2024 Q4. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Subsection (l)(3)(C)(i)

The regulatory language has been amended such that, when determining collection method, self-hauled material is not segregated into residential versus commercial self-haul. This change was implemented in response to feedback received from interested parties during the 45-day public comment period, in which said parties opposed the separation of self-hauled material into residential versus commercial self-haul because it would be too difficult for reporting parties to accurately distinguish between residential versus commercial. Based on these comments, CalRecycle decided to remove the regulatory language splitting the self-haul source sector into residential and commercial, which is discussed earlier in this FSOR (e.g., subsection 18815.9(c)(1)(A)). Consequently, because a component of collection method is source sector, subsection 18815.9(l)(3)(C)(i) was altered to remove the language requiring that self-hauled material be split into residential versus commercial. Note that this change was also made to match the updates to subsection 18815.2(a)(10.5)(A).

Subsection (l)(4)

The regulatory language was changed to clarify how collection method should be determined for mixed loads. For loads that represent multiple levels of segregation (e.g., 1-bin and 2-bin recycling), the most aggregated segregation level shall apply (e.g., 1-bin). For loads that represent multiple source sectors, the proportion from each sector shall be estimated or the majority sector shall be assigned. If estimation is not possible and the majority sector is not known, then loads shall be assigned to the self-haul sector. CalRecycle implemented these changes because, during the 45-day public comment period, interested parties expressed confusion about determining collection method for mixed loads. That no comments on this topic were submitted during the 15-day comment period indicates that the interested parties' confusion was addressed by these changes.

Title 14, Section 18794.2

Within Title 14, Article 9.0, changes were made to section 18794.2.

Title 14.	Natural Resources
Division 7.	Department of Resources Recycling & Recovery
Chapter 9.	Planning Guidelines and Procedures for Preparing and Revising Countywide Integrated Waste Management Plans
Article 9.0.	Annual Report Regulations.
Section	18794.2

Section 18794.2

Subsection (c)(7)

The regulatory language has been changed to state that the originally proposed amendments will take effect January 1, 2025 rather than October 1, 2024. CalRecycle implemented this change because interested parties requested a later effective date, 2025 Q1, for this requirement during the 45-day public comment period.

Overall Benefits of the Regulations

The overall benefits of the currently proposed regulations are the same as those described in the ISOR, except that the benefits no longer include increased detail regarding source sector reporting.

Studies, Reports, and Similar Documents Relied Upon

Subsequent to the first 45-day public comment period, which ended on March 15, 2023, additional documents were incorporated into the rulemaking record to further support the rulemaking. These additional documents comprised updated versions of the economic and fiscal impact statement (i.e., updated versions of STD 399, STD 399 Appendix A, and STD 399 Appendix B), which were noticed during the 15-day comment period. The differences between the updated and original economic and fiscal impact statements are summarized later in this FSOR.

Local Mandate Determination

CalRecycle has determined that this regulatory action may impose a cost on local agencies that operate facilities subject to the regulations. However, CalRecycle finds that these costs are not reimbursable pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, because the regulatory action does not mandate a new program or a higher level of service, and the costs of the regulatory action are not unique to local governments.

Consideration of Alternatives

For the reasons set forth in the ISOR, in CalRecycle's summary and response to public comments, and in this FSOR, CalRecycle has determined that no alternative considered by CalRecycle would be more effective in carrying out the purpose for which the regulatory action was proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the action taken by CalRecycle. The reasons for rejecting the considered alternatives are explained below.

Statement Regarding Small Business Alternatives

CalRecycle also considered and rejected alternatives that would lessen any adverse economic impact on small business. Pursuant to Government Code section 11346.9(a)(5), the reasoning for rejecting these alternatives is explained below.

Alternatives Discussion

As discussed in the ISOR, CalRecycle grouped the regulatory changes into those needed for [Assembly Bill \(AB\) 881 \(Gonzalez, Chapter 501, Statutes of 2021\)](#), for [Senate Bill \(SB\) 343 \(Allen, Chapter 507, Statutes of 2021\)](#), and generally to improve existing regulations. For each of these groups, CalRecycle considered a single alternative. That alternative essentially meant collecting less information than what CalRecycle proposed via the updated regulations. The alternatives that CalRecycle considered for the current version of the proposed regulations did not differ conceptually from the alternatives that CalRecycle considered in the ISOR. Note that each alternative was the same for both “small” businesses (as defined by Government Code section [11346.3\(b\)\(4\)\(B\)](#)) and other businesses.

In general, the alternatives were rejected because, by resulting in the collection of less information, the alternatives would have significantly reduced all of the benefits of the regulations, as described in the ISOR. Moreover, pursuant to Public Resources Section 41821.5(c), the purpose of the regulations is to provide a representative accounting of materials handled, processed, and disposed in the state, and no alternative can fulfill that purpose while selectively reducing the economic burden on small or other businesses.

Below, CalRecycle summarizes the alternatives and any differences in the alternatives analysis relative to that included in the ISOR. For further details beyond the discussion in this section, see the attached updated versions of STD 399, STD 399 Appendix A, and STD 399 Appendix B.

SB 343 Alternative

For SB 343, the alternative that CalRecycle considered was to require that only transfer/processors report collection method, rather than all activity types. CalRecycle rejected this alternative because SB 343 requires CalRecycle to obtain representative information about recovered materials in the state, which cannot be accomplished by requiring only transfer/processors to report collection method and ignoring other activity types.

The results of the analysis of this alternative are the same as that in the ISOR, with one exception. In the ISOR, CalRecycle argued that the data provided by the regulatory updates for collection method justify the cost, since CalRecycle calculated that the average business would incur a relatively low additional cost per year. In the ISOR alternatives analysis, this cost was reported as \$3,772 cost per year. In the updated economic analysis, CalRecycle determined that this cost would be \$3,746 per year. The cost per business per year was reduced due to the change in the proposed regulations regarding source sector. See the updated STD 399 and corresponding updated appendices, STD 399 Appendix A and Appendix B.

AB 881 Alternative

For AB 881, the alternative that CalRecycle considered was to allow exporting entities to host assign mixed plastic waste instead of requiring entities to pass along the true jurisdiction of origin to the exporter. CalRecycle rejected this alternative because it would not provide a representative accounting of the origins of mixed plastic waste. Host assigned jurisdictions would be less granular and less accurate than what is needed to appropriately determine the origin of disposed materials.

The results of the analysis of this alternative are the same as that in the ISOR, with one exception. In the ISOR, CalRecycle estimated that the alternative would cost \$4,173,330 fewer dollars than the proposed regulations. In the updated analysis reported here, CalRecycle instead estimated that the alternative would cost \$4,769,520 fewer dollars than the proposed regulations. The increase in the difference stems from changing some, but not all, of the new regulatory requirements to start in 2025 Q1 rather than 2024 Q4. That is, the reporting requirements for AB 881 will start when the regulations are adopted, which is estimated to be 2024 Q1. However, other reporting requirements in the regulations are now proposed to take effect in 2025 Q1, rather than the originally proposed 2024 Q4. Thus, because the economic analysis must consider costs over a full year of implementation, the economic costs of the AB 881 requirements are estimated from 2024 Q1 through 2025 Q4, rather than through 2025 Q3. This additional quarter increased the cost estimate of both the proposed and alternative AB 881 reporting requirements, but the increase for the proposed regulations exceeded the increase for the alternative. See the updated STD 399 and corresponding updated appendices for further details.

General Changes Alternative

For general updates, the alternative that CalRecycle considered was not implementing each of the general updates. CalRecycle rejected this alternative because CalRecycle determined that each general update was necessary to meet statutory and program needs. Each general update is more specifically discussed in the ISOR.

The results of the analysis of the alternative are the same as that in the ISOR, with two exceptions. First, as discussed in the AB 881 alternative subsection earlier, the current proposed regulations require the economic impacts to be estimated over a longer interval, which increased the costs of the proposed regulations relative to the alternative. Second, in the regulations proposed in the 45-day notice, CalRecycle required reporting entities to separate the self-haul source sector into its residential and commercial components. Based on feedback received during the 45-day comment period, in which interested parties noted that such determinations would be unfeasible and inaccurate, in the 15-day regulations (the current version) CalRecycle reverted the source sector regulations to the original state prior to the 45-day notice. Consequently, this reversion reduced the costs of the proposed

regulations relative to what was considered in the alternatives discussion of the ISOR. Combining the increase in the cost of proposed regulations due to the increased calculation interval, and the decline in the cost due to the removal of the source sector updates, CalRecycle estimated that the alternative would cost \$5,047,510 fewer dollars than the current proposed regulations. In the 45-day version of the regulations, CalRecycle estimated that the alternative would cost \$5,105,372 fewer dollars than the proposed 45-day regulations. See the updated STD 399 and corresponding updated appendices for further details.

All Alternatives

In the ISOR, CalRecycle discussed the costs and reasons for rejecting the alternatives as a whole. This general summary has changed with regards to the current proposed regulations in two ways.

First, due to the updates to the economic costs (as discussed in the previous SB 343, AB 881, and General Changes Alternatives sections), the cost of the alternatives and cost to individual businesses changed. In the ISOR, the total cost of the alternatives was \$7,309,444 fewer dollars than the 45-day proposed updates over one year of full implementation of the regulations. In the updated analysis, the alternatives are \$7,251,581 fewer dollars than the current proposed regulations. For costs to businesses, in the ISOR, CalRecycle estimated that the average business would experience a cost of \$3,772 per year, whereas the updated analysis produced a cost of \$3,746.

Second, regarding source sector, the alternatives discussion in the ISOR justified requiring reporting entities to separate self-haul into its residential and commercial components by arguing that the unified self-haul category prevented accurate estimates of the commercial and residential source sector. While CalRecycle still contends that separating the self-haul source sector into its residential and commercial components would improve the overall quality of source sector data in RDRS, CalRecycle acknowledges and agrees with stakeholder concerns that reporting entities are not likely to be able to accurately separate self-haul into its residential and commercial components without creating undue burden. Thus, the benefits of splitting source sector would not be realized in practice, which is why CalRecycle reverted the source sector regulations to their original state prior to the 45-day notice, effectively accepting the alternative of no change for the source sector updates.

Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business

CalRecycle has conducted an economic analysis and made an initial finding that the proposed action will not have a significant adverse economic impact on businesses in California. The reasons for doing so are the same as reported in the ISOR and not repeated here.

However, some of the exact numbers used in the determination have changed due to changes made to the regulations in the 15-day notice and the corresponding updated economic analysis. Specifically, in the ISOR, CalRecycle estimated that a typical business would experience an annual cost of \$3,772 to comply with the proposed 45-day regulations. In the updated economic analysis of the currently proposed regulations, CalRecycle instead estimates an annual cost of \$3,746, which is less than the original estimate.

In the ISOR, CalRecycle concluded that the 45-day proposed regulations did not meet the criterion for a major regulation, because the total estimated cost of the regulations over the first 12 months of implementation was less than \$10,000,000 (specifically, \$8,605,141). In the updated analysis, CalRecycle estimates this cost as \$8,547,278. Thus, the current proposed regulations do not meet the criterion for major regulation, and CalRecycle did not complete a Standardized Regulatory Impact Analysis (SRIA).

For further details of CalRecycle's economic analyses, please see the updated STD 399 and accompanying updated appendices A and B.

Economic Impact Assessment/Analysis

As described above, CalRecycle determined that the economic impact of the originally and currently proposed regulations would not exceed the threshold requiring a SRIA. CalRecycle therefore completed an Economic Impact Assessment (EIA) in accordance with Government Code Section 11346.3(b). Note that because CalRecycle updated the regulations after the 45-day notice, CalRecycle updated the EIA to match the new proposed regulations. This section of the FSOR presents the findings from the updated EIA by summarizing differences between the updated EIA and the original EIA reported in the ISOR. Additional economic and fiscal information are contained within the updated STD 399 and its two updated appendices A and B. The updated STD 399 and appendices A and B were noticed during a 15-day public comment period, which lasted from July 12 through July 27, 2023.

Creation or Elimination of Jobs

Relative to the ISOR, the updated analysis produced no changes to the number of created or eliminated jobs.

Creation or Elimination of Businesses

Relative to the ISOR, the updated analysis did not change conclusions regarding the creation or elimination of businesses. The specific estimated annual cost to the average business did change, however, from \$3,772 per year to \$3,746.

Expansion of Businesses

Relative to the ISOR, the updated analysis did not change conclusions regarding the expansion of businesses.

Benefits of the Regulations

The proposed benefits of the regulations in the updated analysis were the same, except that benefits no longer include increased detail regarding source sector. The proposed changes to the RDRS regulations will improve the state's environment and the health and welfare of California residents. The updates will improve the quality and increase the detail of data collected within RDRS, particularly regarding the material type of recycled or otherwise recovered materials, jurisdiction of origin for solid waste, and jurisdiction of origin for exported mixed plastic. These datasets will help the public evaluate products with regard to the labeling requirements of SB 343. The datasets will also improve the information available to jurisdictions regarding their disposal and progress towards disposal mandates. In combination, these benefits will help CalRecycle create strategies for reducing statewide disposal and moving the state towards a circular economy, which will in turn reduce environmental impacts from disposal.

Updates to STD 399

Relative to the original 45-day notice, the information in the STD 399 and accompanying appendices changed in two main ways. First, because the regulations creating additional reporting burden for source sector were removed in the 15-day notice, the economic costs of source sector reporting declined (relative to the 45-day notice). Second, because certain regulations will now take effect in 2025 Q1 rather than 2024 Q4, the total period over which economic costs were estimated increased (2024 Q1 through 2025 Q4, rather than 2024 Q1 through 2025 Q3). However, the reduction in source sector costs outweighed the increase due to the calculation interval change. Meaning, the total economic cost of the regulations is less than the initially proposed regulations. The fiscal cost (i.e., cost to state and local governments) did not change in the updated STD 399.

For a full accounting of the specific differences between the original and updated STD 399, STD 399 Appendix A, and STD 399 Appendix B, please see the 15-Day Notice, published July 12, 2023.

Duplication or Conflicts with Federal Regulation

Pursuant to Government Code section 11346.2(b)(6), CalRecycle found that there are no federal laws or regulations addressing the same issues as the proposed regulations. Therefore, these regulations do not duplicate or conflict with any federal law or regulation.

Finding on Necessity of Reports

No change to this section relative to the NOPA.

Effect on Housing Costs

No change to this section relative to the NOPA.

Availability of Changed or Modified Text

No change to this section relative to the NOPA.

Summary and Response to Comments Received During the First 45-day Comment Period

Summary of Comments Received

Written comments were received by CalRecycle during the first 45-day comment period, which began on January 27, 2023, and ended on the conclusion of the rulemaking hearing on March 15, 2023. Written and oral comments were additionally received at a public hearing on March 15, 2023. That comment period was actually 48 days, but CalRecycle refers to it as the “45-day” comment period due to statute, which requires a minimum 45-day comment period (Public Resources Code, or PRC, 11346.4).

The comments received during the first 45-day comment period and public hearing are contained within the attached “RDRS Comment Matrix.docx” file (Comment Matrix). The file shows the corresponding comment code, California Code of Regulations (CCR) section that the comment is in reference to (if applicable), the commenter’s name, their organization, and CalRecycle’s response to the comment. CCR sections referenced in RDRS Comment Matrix always refer to Title 14.

During the 45-day comment period and public hearing, CalRecycle received comments from 11 interested parties, representing 14 individual comments. After reviewing these comments, CalRecycle organized them into 51 separate items. CalRecycle has grouped these 51 comments into eight categories (see below), based on the underlying regulatory concepts of the comments. Please refer to the RDRS Comment Matrix, as well the attached PDF of comments received and public hearing transcript, to review the comments received.

1. Comment in Support: Comments in support of the proposed regulations.
2. Reporting and/or Registration: Comments regarding concerns over general reporting and registration topics.

3. Mixed Plastics Export: Comments regarding data gathering and reporting for mixed plastics export.
4. Collection Method: Comments regarding data gathering and reporting for collection method.
5. Jurisdiction of Origin: comments regarding jurisdiction of origin data gathering and reporting.
6. Material Type: Comments regarding material stream and material type.
7. Definition of Recycling: Comments regarding the definition of recycling.
8. Source Sector: Comments regarding the definition of and reporting requirements related to source sector.
9. Other: Other comments that related to multiple comment categories, that did not relate to the regulations, or that otherwise were not able to be categorized into one of the above options.

CalRecycle would like to express its appreciation to the numerous organizations, agencies, and individuals that participated in the 45-day comment period and public hearing. Based on comments received, CalRecycle concluded that changes to the proposed regulations were necessary. The updates to the proposed regulations were noticed in a 15-day comment period, which lasted from July 12 through July 27, 2023. The changes are summarized below, based on the categories listed above. If a category is not listed, then there were no updates for that category.

Summary of Regulatory Changes

Registration and/or Reporting

First, in all locations where the originally proposed regulations (i.e., those from the 45-day notice) dictated that new requirements would take effect in quarter four of 2024, CalRecycle updated the regulations to take effect in quarter one of 2025. CalRecycle received several comments during the 45-day comment period requesting this later start date. CalRecycle agreed that having the new requirements start one quarter later would make complying with the regulations more feasible for reporting entities, which outweighed the benefits of earlier reporting.

Second, in the regulations of the 45-day notice, CalRecycle proposed that two reporting entities must resolve discrepancies in their submitted reports in 10 business days. CalRecycle received comments requesting a longer resolution period. CalRecycle modified the proposed regulations to allow an additional 10 business days (20 business days total), if justified based on reasons provided by the reporting entity.

Third, CalRecycle added a new subsection in the 45-day regulations (i.e., California Code of Regulations, or CCR, subsection 18815.3(q)) that explained the registration process in the Recycling and Disposal Reporting System (RDRS). CalRecycle received a comment in the 45-day comment period asking whether the new

regulations in this subsection allowed sites with multiple reporting entities to combine reporting for all entities together in one report. CalRecycle clarified that sites with multiple reporting entities should report as described in CCR subsection 18815.3(d).

Mixed Plastics Export

During the 45-day comment period, CalRecycle received a comment asking that the definition of export in the 45-day proposed regulations be limited to destinations out of country. It was not CalRecycle's intent to define export as including locations in the United States. In the 15-day proposed regulations, CalRecycle altered the regulations to explain that evaluating export is a two-step process. First, one assigns the destination of tons sent as wherever the material was received by the recipient. Then, this destination shall be considered to be exported or not according to the definition of export in PRC 41781.4(c) and CCR 18815.2(a)(25.5).

Collection Method

The 45-day notice regulations concerning collection method were updated to account for changes to source sector and to address collection method for mixed loads. Specifically, the definition of collection method references source sector. Because of the alterations to source sector in the 15-day notice regulations, CalRecycle made corresponding changes to collection method to ensure that separation of the self-haul source sector into commercial and residential components was not required for the purposes of collection method. Regarding mixed loads, CalRecycle received a comment identifying that the 45-day proposed regulations did not explain how collection method should be derived for mixed loads. CalRecycle therefore provided that method in the 15-day proposal. The collection method for mixed loads is assigned as the most aggregated type of collection method represented by the mixture (e.g., if a load is a mixture of 1-bin and 2-bin recycling, then the load would be assigned 1-bin, since 1-bin is more aggregated than 2-bin). For mixed loads, the source sector component of collection method is assumed to be self-haul, unless a reporting entity can estimate the proportions for each specific sector or can identify the sector constituting the majority of the mixture.

Jurisdiction of Origin

In the 45-day proposed regulations, CalRecycle altered the methods that reporting entities were allowed to use to determine jurisdiction of origin for tons sent. During the 45-day comment period, CalRecycle received a comment asking that the methods for one type of reporting entity be the same as another. It was not CalRecycle's intent that the regulations should differ by type of reporting entity. Therefore, in the 15-day proposed regulations, CalRecycle altered the regulations such that all reporting entities must follow the same methodology when determining jurisdiction of origin for tons sent.

Material Type

CalRecycle received a comment during the 45-day comment period regarding beneficial reuse material type. The comment explained that the 45-day proposed regulations did not provide a method that non-disposal facilities should use to report material type for beneficial reuse. Through the comment, CalRecycle also determined that the regulations regarding soil and beneficial reuse could be improved. Consequently, CalRecycle altered the regulations to explain the method that each reporting entity activity type should use to report beneficial reuse. In this method, CalRecycle also clarified that soil must not be included in beneficial reuse tonnages. Note, due to these changes to beneficial reuse material type reporting, CalRecycle needed to update a regulatory cross-reference within the section for transfer/processors to refer to the appropriate, new methods.

Definition of Recycling

In the 15-day notice version of the regulations, CalRecycle updated the definition of recycling in response to comments received during the 45-day comment period that sought clarity on the intent of the definition. First, CalRecycle amended the definition to clarify that it applies only in the context of RDRS (i.e., for determining whether facilities must report in RDRS). Second, the definition was altered to clarify that the recycling activities listed the definition (CCR 18815.2(a)(43), subparagraphs (A) through (D)) are meant to be examples of activities that may constitute recycling rather than an exhaustive list of all possible activities. Whether any given activity is considered recycling for the purposes of RDRS reporting depends on whether that activity meets the definition of recycling provided in CCR 18815.2(a)(43). Importantly, the 15-day amendments to the definition of recycling do not change the effect of the originally proposed regulatory language and are for clarity only.

Source Sector

The regulations related to source sector were altered in substantial and non-substantial ways. Regarding substantial, in the 45-day notice, CalRecycle proposed to require reporting entities to separate the self-haul source sector into residential and commercial components. CalRecycle received several comments that doing so would be difficult and inaccurate. Given these stakeholder concerns, CalRecycle removed the requirement that the self-haul source sector be split into residential and commercial components. CalRecycle also removed the regulations in the 45-day notice that created a new source sector category. Commenters found this category confusing, and CalRecycle determined that the benefits provided by the fourth category alone (i.e., without splitting self-haul into its residential and commercial components) were not justified by the potential cost to affected parties. Regarding non-substantial changes to source sector, in the 15-day notice, CalRecycle changed the regulations to clarify that disaster debris and designated waste are not assigned a source sector. This update is not substantial because

existing regulations do not require reporting of source sector for disaster debris and designated waste.

CalRecycle's Response to Comments Received

The comments and CalRecycle's responses are summarized below. Comment letters received during the public comment period, as well as the RDRS Comment Matrix file, which includes CalRecycle's responses, are posted on the [RDRS rulemaking website](#).

1. Comments in Support

CalRecycle received three comments (comment codes 45-E-6, 45-E-6A and 45-E-6B) supporting the objectives and goals of the Recycling and Disposal Reporting System Regulatory Permanent Regulations.

Agency Response (to all comments in support): CalRecycle notes no changes are needed in the proposed regulations and acknowledges the general support expressed by these three comments.

2. CalRecycle Response: Registration and/or Reporting

CalRecycle received 12 comments that related to general registration and reporting topics in the RDRS regulations. These comments (comment codes 45-E-1D, 45-E-5, 45-E-5A, 45-E8D, 45-E-6C, 45-T-10A, 45-E-6E, 45-T-10B, 45-E-7C, 45-T-14, 45-E-8I, and 45-E-8J) and CalRecycle's responses are summarized below.

Comment 45-E-1D

Comment Code 45-E-1D: CalRecycle received one comment asking whether a reporting entity would be required to report disposed artificial turf fields in RDRS.

Response to Comment 45-E-1D: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Who is required to report and for what material categories is covered extensively in 18815.3(a) and (b). The proposed regulatory changes do not alter these requirements.

If an artificial turf field is sent to disposal at a landfill, then the landfill would report the tonnage associated with that turf field in RDRS. But, note that material type is not required for landfill disposal, so RDRS would not know that the landfill disposed artificial turf fields specifically.

Comment 45-E-5

Comment Code 45-E-5: CalRecycle received one comment regarding when the altered regulations in CCR subsection 18815.3(f)(1) would take effect for entities that are already registered in RDRS.

Response to Comment 45-E-5: CalRecycle rejects this comment. No change was made pursuant to this comment.

Subsection 18815.3(f)(1) does not determine when entities who are already registered within RDRS will report information relative to the new reporting requirements. Instead, this subsection dictates when entities need to begin reporting in RDRS relative to when they became subject to RDRS reporting requirements. Prior to the addition of subsection 18815.3(f)(1), an entity was required to begin reporting in RDRS the quarter after the entity became subject to RDRS regulations. For example, if an entity began operations subject to RDRS reporting as of 1 January 2023 (2023 Q1), then this entity should have registered and began reporting in RDRS as of 2023 Q2 (the next quarter after 2023 Q1). Within the addition of 18815.3(f)(1), however, entities that become subject to RDRS regulations in a quarter that ends after 1 January 2025 (2025 Q1 and later) will report as of that quarter. For instance, if an entity begins operations subject to RDRS reporting as of 1 January 2025 (2025 Q1), then this entity is required to register and report as of 2025 Q1 (the same quarter).

Note that the text in 18815.3(f)(1) was updated to use 1 January 2025 rather than 1 October 2024. See response to comment 45-E-6C and 45-T-10A.

Comment 45-E-5A and 45-E-8D

Comment Code 45-E-5A and 45-E-8D: CalRecycle received two comments requesting more time for entities to resolve discrepancies in their quarterly reports.

Response to Comment 45-E-5A and 45-E-8D: CalRecycle accepts these comments. CalRecycle added language to 18815.3(n)(5) indicating that the entities involved may request an additional 10 business days, creating a total resolution period of 20 business days, which is slightly under 30 calendar days. CalRecycle added language referring to business days rather than calendar days to be consistent with the rest of the regulations, which use business days. CalRecycle set the total resolution time to 20 business days because CalRecycle determined that 10 business days is enough time when only one entity is involved, and thus 20 days should be enough time for two entities. However, because CalRecycle has an interest in the resolution of issues, CalRecycle is requiring entities to inform CalRecycle if the resolution will take longer than 10 business days.

Comment 45-E-6C and 45-T-10A

Comment Code 45-E-6C and 45-T-10A: CalRecycle received two comments that requested the new regulations take effect in 2025 Q1 rather than 2024 Q4.

Response to Comment 45-E-6C and 45-T-10A: CalRecycle accepts these comments. Throughout the regulations, wherever new regulations were slated to take effect 2024 Q4, the quarter was updated to 2025 Q1. Please see: 18815.3(f)(1), 18815.3(q)(2)(B)(iii), 18815.4(c)(3), 18815.4(d)(3), 18815.5(a)(4), 18815.5(h)(3), 18815.6(b)(4), 18815.6(g)(3), 18815.7(a)(8), 18815.7(g)(2), 18815.8(a)(7), 18815.8(d)(2), 18815.9(a)(2)(D), 18815.9(b)(5), and 18815.9(l).

Based on these comments, CalRecycle also realized that the starting quarter was not clear for contract hauler collection method reporting requirements. CalRecycle rectified this issue by changing 18815.4(d)(2)(G) to refer to subsection 18815.9(l) rather than 18815.9(l)(2). This change clarifies that contract hauler collection method reporting requirements begin in 2025 Q1.

Comment 45-E-6E and 45-T-10B

Comment Code 45-E-6E and 45-T-10B: CalRecycle received two comments asking the department to focus on training rather than enforcement when the new regulations first take effect.

Response to Comment 45-E-6E and 45-T-10B: CalRecycle rejects these comments. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

However, to the extent that these comments were intended to suggest that the regulations concerning enforcement should be amended or that additional regulations should be added to address training, no response is required because such suggestions are outside the scope of the proposed changes.

Comment 45-E-7C and 45-T-14

Comment Code 45-E-7C and 45-T-14: CalRecycle received two comments asking how reporting works for material sold from a California broker to a non-California broker.

Response to Comment 45-E-7C and 45-T-14: CalRecycle rejects this comment. No response is required because this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

However, to explain the process for how outflows to broker/transporters are reported: If the first broker/transporter takes possession of material in California

and the second broker/transporter takes possession out of California, then the new regulations, 18815.8(a)(4), would require the first broker/transporter to report the destination in RDRS as the region where the second broker/transporter took possession of the material. If the second broker/transporter takes possession of the material in California, then that second broker/transporter is required by existing RDRS regulations to report its outflows in RDRS (18815.3(b)(6) and 18815.8).

Comment 45-E-8I

Comment Code 45-E-8I: CalRecycle received one comment asking whether the new subsection, 18815.3(q), was meant to allow multiple entities on the same site to report together within RDRS.

Response to Comment 45-E-8I: CalRecycle rejects this comment. 18815.3(q) does not allow multiple entities on the same site to report together. For clarification, CalRecycle edited 18815.3(q)(1) to say that sites with multiple reporting entities should refer to 18815.3(d) for how to report.

Comment 45-E-8J

Comment Code 45-E-8J: CalRecycle received one comment suggesting an alteration to the regulations governing what materials are considered generated on-site for disposal facilities. Specifically, for materials that are (1) not solid waste, designated waste, disaster debris, or beneficial reuse, and (2) received and directly transferred by the disposal facility, the comment requested that if the jurisdiction of origin for the material was known, then the material should not be considered generated on-site.

Response to Comment 45-E-8J: CalRecycle rejects this comment. Section 18815.6(b) explains the reporting requirements for material generated on-site. Importantly, material generated on-site can have any material stream (e.g., solid waste or recycling/composting). However, the comment specifically relates to the portion of 18815.6(b) that which explains when material *that is not solid waste, designated waste, disaster debris, or beneficial reuse* shall be considered generated on-site. Importantly, when material is not solid waste, designated waste, disaster debris, or beneficial reuse, the only remaining options are recycling/composting, end use, brokering/transporting, and exported mixed plastic waste. The reporting requirements for these streams do not vary depending on whether the jurisdictions of origin for the materials are known. Thus, there is no reason to make the commenter's proposed change.

In addition, if this comment reflects underlying concern over determining jurisdiction of origin for materials generated on-site, then: When the proposed regulations say that a disposal facility shall consider material generated on-site, generated on-site does not mean that a disposal facility has to host-assign the materials to the facility's jurisdiction. Rather, pursuant to 18815.9(b)(2.4), if the disposal facility knows the specific jurisdiction of origin for the materials generated

on-site, then the disposal facility can use those specific jurisdictions rather than the host-assigned location of the facility.

3. CalRecycle Response: Mixed Plastics Export

CalRecycle received four comments that related to the new regulations regarding reporting of exported mixed plastic. These comments (comment code 45-E-1A, 45-E-8B, 45-E-8H, 45-T-11B) and CalRecycle's response are summarized below.

Comment 45-E-1A

Comment Code 45-E-1A: CalRecycle received one comment asking for clarification of a sentence using the Notice of Proposed Action, which pertained to exported mixed plastics and reporting of jurisdiction of origin for such materials.

Response to Comment 45-E-1A: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Prior to AB 881, exported mixed plastic was not considered disposal, so there was no reason to collect jurisdiction for these materials. With the passage of AB 881, exported mixed plastic will be considered disposal for the purposes of jurisdictions' AB 939 (Sher, Chapter 1095, Statutes of 1989) calculations. In order to calculate such jurisdiction disposal, CalRecycle needed to adopt regulations collecting jurisdiction of origin for exported mixed plastic, which is what the proposed regulations do.

Comment 45-E-8B and 45-T-11B

Comment Code 45-E-8B and 45-T-11B: CalRecycle received two comments requesting that the definition of mixed plastics be changed so that mixed plastics would not include mixtures of plastics and other materials.

Response to Comment 45-E-8B and 45-T-11B: CalRecycle rejects these comments. The comments propose to exclude other materials from the definition of mixed plastic, instead limiting mixed plastic to only high-density polyethylene, polypropylene, polyethylene terephthalate, or a combination of those three resin types.

However, the definition of mixed plastic must include other materials. For example, if a reporting entity exports mixed materials (e.g., unsorted recyclables including paper, glass, and plastic #3, #4, #6, and #7), then AB 881 would classify the mixed materials as disposal (since the mixture is not only plastic #1, #2, or #5). Excluding such mixed materials from the definition of mixed plastic simply because the materials also include paper and glass would circumvent the intent of AB 881.

Further, it's important to note that AB 881 has two implicit definitions for exported mixed plastic waste: diverted versus disposed exported mixed plastic waste. AB 881 defines disposed exported mixed plastic as those materials that do not meet the definition of diverted exported mixed plastic. Diverted exported mixed plastic is mixed plastic comprising only high-density polyethylene, polypropylene, polyethylene terephthalate, or a mixture of those plastics, which is exported to a country following all laws of the country. In the RDRS regulations, CalRecycle is creating a definition of mixed plastic waste that is used in the context of *disposal* export, rather than *diversion* export. Thus, the definition uses the logic that mixed plastic is anything that is not what is indicated as diversion by AB 881. If CalRecycle were to define mixed plastic as only high-density polyethylene, polypropylene, polyethylene terephthalate, or a combination of those three resin types, then that definition would refer to diverted mixed plastic, which would be inappropriate in the context of the regulations.

Comment 45-E-8H

Comment Code 45-E-8H: CalRecycle received one comment asking that the definition of export be clarified to refer to out of country destinations.

Response to Comment 45-E-8H: CalRecycle accepts this comment. The original definition of export did not include the phrase "out of country" because the statute, 41781.4(c), currently exempts materials sent to Canada and Mexico from being considered disposal. Further, because the RDRS regulations seek to capture outflows of mixed plastic that are considered disposal rather than diversion, the definition of export is focused only on exported materials that will be considered disposal. If the proposed language had included the phrase, "out of country," then that would have included materials sent to Canada and Mexico, which are not currently considered export (i.e., disposal) according to 41781.4(c).

That being said, CalRecycle updated the definition of export, 18815.2(a)(25.5), to clarify that the sentence of interest was meant to be used to identify the destination rather than whether or not the destination counted as export. That is, to determine whether a destination should be considered export, one first needs to identify the destination. When identifying the destination, entities need to use the location where the material is actually received (e.g., if a facility has a business address in California but receives the material in Canada, then the destination would be Canada). Whether the identified destination (e.g., Canada) will be considered "export" will depend on 41781.4(c).

4. CalRecycle Response: Collection Method

CalRecycle received three comments that related to the new collection method requirements. These comments (comment code 45-E-1B, 45-E-8A, and 45-T-11A) and CalRecycle's responses are summarized below.

Comment 45-E-1B

Comment Code 45-E-1B: CalRecycle received one comment asking what was meant by “collection method” when it was used in the Notice of Proposed Action.

Response to Comment 45-E-1B: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Collection method is defined in the proposed regulations. The materials for which collection method will be gathered are explained in the regulations for each reporting entity activity type (e.g., for contract haulers, see 18815.4(d)(G); for transfer/processors, see 18815.5(a)(1)(D); see 18815.6 through 18815.8 for the other reporting entity activity types).

Comment 45-E-8A and 45-T-11A

Comment Code 45-E-8A and 45-T-11A: CalRecycle received two comments regarding the definition of collection method. Both comments asked that CalRecycle clarify and limit the scope of materials to which collection method applies. One comment additionally stated that the definition of collection method should address the situation in which materials are not segregated into discrete groups of differing collection method type.

Response to Comment 45-E-8A and 45-T-11A: CalRecycle rejects these comments. CalRecycle did not alter the definition of collection method due to these comments, but the methods for collection method were updated.

CalRecycle did not update the definition for several reasons. First, the comments express concern that collection method will be collected for all materials. This is not correct. Collection method will be gathered for materials that are handled for purposes other than disposal or beneficial reuse. Second, one comment proposes to narrow the definition of collection method by focusing it to “loads containing only products and packaging.” However, this change does not narrow the definition. All materials could conceivably be classified as either a product or a package. Further, if “products and packaging” were their own class of items, it seems unlikely that contract haulers would know if their loads contained only such items. Third, CalRecycle contends that it simplifies logistics if entities report collection method on all materials handled for purposes other than disposal or beneficial reuse, rather than having to determine whether a particular load qualifies for collection method based on the material type of that load. If the regulations implemented the latter approach (requiring collection method for specific materials), then reporting entities would have to inspect loads to determine whether they qualify. However, reporting entities should generally know when a load comes in whether that load is destined for disposal or beneficial reuse, which will determine whether the load requires a collection method.

Regarding one comment's point about mixed loads, CalRecycle updated 18815.9(l). Specifically, CalRecycle added a paragraph (4) explaining how collection method should be determined for mixed loads. If a load represents a mixture, then the collection method of that mixture should be determined as the highest level of aggregation represented by that mixture. For example, if a load is a mixture of solid waste and recyclables, then the material stream portion of the load's collection method should be assigned as solid waste. If a load is a mixture of 1-bin and 2-bin recycling, then the load should be considered 1-bin. If a load is mixture of residential and commercial, then the load should be classed as self-haul, unless the reporting entity knows that the load is a majority residential or commercial, in which case the majority sector should be used.

5. CalRecycle Response: Jurisdiction of Origin

CalRecycle received one comment that related to the new regulations regarding methods for determining jurisdiction of origin. This comment (comment code 39) and CalRecycle's response are summarized below.

Comment 45-E-8L

Comment Code 45-E-8L: CalRecycle received one comment asking why the options for determining jurisdiction of origin (in 18815.9(b)(3) through (5)) appeared to differ between transfer/processors and other reporting entities.

Response to Comment 45-E-8L: CalRecycle accepts this comment. The intent was not to limit transfer/processors relative to other reporting entities. For focal transfer/processors sending recycling and composting (18819.9(b), paragraph 3.5), and for all focal entities exporting mixed plastic waste (paragraph 5), we had assumed that the focal entity would calculate inbound percentages based on the inflow methods specified in 18815.9(b), paragraphs (2) through (2.6). Then, the entity would use the inbound percentages to calculate outflow percentages. If inbound materials are host-assigned, then this method is the same as (4)(C). If inbound materials are not host-assigned, then this method is the same as (4)(A) or (4)(B), depending on how much detail the focal entity has about its inflows and outflows.

However, for clarity, CalRecycle deleted paragraphs (3.5) through (5) and generalized paragraph (3) to apply whenever any entity (rather than just transfer/processors) is calculating jurisdiction of origin for tons sent pursuant to Article 9.25. Paragraph (3) also now includes language allowing facilities greater flexibility regarding host-assignment (i.e., what was formerly subparagraphs (A) through (C) within paragraph (4) is now included as subparagraphs of paragraph (3)).

6. CalRecycle Response: Material Type

CalRecycle received one comment that related to regulations governing reporting of material type. This comment (comment code 45-E-8K) and CalRecycle's response are summarized below.

Comment 45-E-8K

Comment Code 45-E-8K: CalRecycle received one comment that identified an error in the proposed regulations regarding reporting outflows of potential beneficial reuse.

Response to Comment 45-E-8K: CalRecycle accepts this comment. The comment identified that the originally proposed language in 18815.9(a)(1)(B), (C), and (D) required that all entities reporting beneficial reuse report material type of that material according to subsection 18815.9(a)(3). However, subsection (a)(3) dictates how material type should be reported according to beneficial reuse type: ADC, AIC, landscaping, erosion control, and construction. Only landfills will know the beneficial reuse type. So any entity, other than a landfill, that reports beneficial reuse cannot follow (a)(3) to report material type. Thus, CalRecycle updated the regulations to fix this discrepancy. Several changes were made to subsection 18815.9(a)(1):

- Updated subparagraph (B) to delete the introductory clause, "With the exception of material sent for beneficial reuse."
- Rewrote subparagraph (C) to say, "Disposal facilities reporting inflows of materials that are used for beneficial reuse shall report material type pursuant to paragraph (3). Reporting entities reporting potential beneficial reuse shall report material type pursuant to paragraph (2). No reporting entity shall include tons of clean or contaminated soil in the tons of potential beneficial reuse."
- Updated subparagraph (D) to delete the introductory clause, "With the exception of material sent for beneficial reuse."
- Updated subsection (D)(ii) to explain that it applies only when subparagraph (C) does not apply: "Except as described in subparagraph (C), all other material..."

Because of the above changes, which clarify that material type for potential beneficial reuse (rather than actual use of materials for beneficial reuse at a landfill) should be reported pursuant to subsection 18815.9(a)(2), CalRecycle made the following additional amendments:

- 18815.5(a)(3)(C) was updated to correct a regulatory reference. This subsection originally stated that transfer/processors should report material type of potential beneficial reuse according to 18815.9(a)(3). Based on the changes to 18815.9(a), this reference should read 18815.9(a)(1)(C) instead.

- To be consistent with 18815.9(a)(3), a new subparagraph (E) was added to 18815.9(a)(2) to clarify that the material type for green material for potential beneficial reuse shall always be reported as green material.

7. CalRecycle Response: Definition of Recycling

CalRecycle received five comments that related to the definition of recycling in the regulations. These comments (comment code 45-E-4, 45-E-4A, 45-E-7D, 45-E-8C, and 45-E-9) and CalRecycle's response are summarized below.

Comment 45-E-4

Comment Code 45-E-4: CalRecycle received one comment that asked whether chemical recycling would count as recycling according to the definition of recycling in the regulations.

Response to Comment 45-E-4: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

However, to the extent that this comment asserts that the proposed regulation is insufficiently clear with the definition of "recycle," no change is appropriate. The revision to section 18815.2(a)(43) only expands the definition to match the scope of the expanded statutory definition of "recycling operations and facilities" stated in PRC section 41821.5.

Regarding that update to PRC 41821.5, the comment appears to be asking whether PRC subsection 41821.5(j)(2) overrides the definition of recycling provided in PRC section 40180. Subsection 41821.5(j)(2) does not override section 40180. Rather, (j)(2) clarifies that facilities that conduct recycling – as defined in 40180 – are considered recycling facilities whether those facilities handle material that was or was not previously discarded. For a "chemical recycling" facility to be considered a recycler, however, it must also meet the definition in 40180.

In addition, CalRecycle notes that the RDRS regulations do not determine what constitutes "recycling" for purposes of the requirements in SB 343 for labeling items as such. Rather, the regulations include a definition of "recycling" solely for the purpose of determining the reporting entities that must report in RDRS.

Comment 45-E-4A

Comment Code 45-E-4A: CalRecycle received one comment that asked whether transformation would count as recycling according to the definition of recycling in the regulations.

Response to Comment 45-E-4A: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

The commenter is asking whether PRC subsection 41821.5(j)(2) overrides the definition of recycling provided in PRC section 40180. Subsection 41821.5(j)(2) does not override section 40180. Rather, (j)(2) clarifies that facilities that conduct recycling – as defined in 40180 – are considered recycling facilities whether those facilities handle material that was or was not previously discarded. For a facility to be considered a recycler, however, it must also meet the definition in 40180, which clearly states that recycling does not include transformation. Thus, if a facility is a transformation entity, it is not a recycler.

Comment 45-E-7D

Comment Code 45-E-7D: CalRecycle received one comment asking whether materials sent to broker/transporters will be considered recyclable if the broker/transporter is either outside the United States or inside the United States but outside California.

Response to Comment 45-E-7D: CalRecycle rejects this comment. No response is required because this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

However, to the extent that the question is asking how the regulations, as amended, affect whether and when materials can be considered “recyclable” under California law, the RDRS regulations do not concern such determinations. Instead, the regulations define “recycling” strictly for the purpose of identifying activities that must report in RDRS so that CalRecycle can collect the data required pursuant to statute, including the newly added requirements of PRC section 42355.51(d)(1)(A)(i). The proposed regulations only modify the current definition of recycling by incorporating the recent statutory change to PRC section 41821.5, which slightly modified the definition of “recycling” solely for purposes of RDRS reporting.

Comment 45-E-8C

Comment Code 45-E-8C: CalRecycle received one comment requesting that the definition of recycling (CCR 18815.2(a)(43)) be clarified to explain that the activities listed in subparagraphs (A) through (D) qualify as recycling only if they meet the requirements of PRC 40180, specifically that the activities return materials to the economic mainstream. The comment asserted that the changes made to 18815.2(a)(43) were inconsistent with the explanation in the ISOR.

Response to Comment 45-E-8C: CalRecycle accepts this comment. In response to this comment, CalRecycle updated the proposed regulation to explain that the activities in subparagraphs (A) through (D) are examples of activities that *may*

qualify as recycling. These activities qualify as recycling *only* if they meet the requirements of the definition (18815.2(a)(43)). Notably, because this regulatory definition explicitly includes PRC 40180 and 41821.5(j), the listed example activities must meet the definition of “recycling” pursuant to PRC sections 40180 and 41821.5(j).

However, to the extent that the commenter asserts that a facility can be required to report only if it is directly involved in the final step of the overall recycling process described in PRC 40180 (i.e., “returning [materials] to the economic mainstream”), no further change is required because statute does not require facilities to perform that final step for the obligation to report as a recycling facility to apply. Under PRC sections 40180 and 41821.5(j), a facility is a recycling facility if it processes materials as part of the overall process described in those sections. Moreover, PRC 41821.5(j) specifically states that recycling facilities include those that process materials “regardless of whether the materials have been discarded or constitute solid waste”; in other words, it is irrelevant whether materials are ever removed from the “economic mainstream” to begin with.

Moreover, multiple other provisions in the RDRS statute make clear that CalRecycle’s authority to require reporting of the activities listed in CCR subsections 18815.2(a)(43)(A) through (D) is not limited to activities that encompass the entire recycling process. For example, PRC section 41821.5(b)(1) states that reporting by recycling facilities includes materials sent to other recycling facilities, end users, exporters, brokers, transporters, and disposal facilities. More generally, 41821.5(c) authorizes CalRecycle to adopt regulations that “provide a representative accounting of solid wastes and recyclable materials that are handled, processed, or disposed.” Requiring facilities that perform the activities listed in subparagraphs (A) through (D) to report as recycling facilities is consistent with that authority.

Regarding the comment’s claim about inconsistency in the ISOR, the ISOR explains that the change with respect to “reuse” is nonsubstantive. This change just updates the paragraph number for referencing the definition of reuse. The reuse change is independent of the other changes to subsection 18815.2(a)(43).

Comment 45-E-9

Comment Code 45-E-9: CalRecycle received one comment asking CalRecycle to create an interim on-ramp, pursuant to SB 54 (Allen, Chapter 75, Statutes of 2022), that would classify materials as recyclable if they are trending towards meeting SB 343’s recycling thresholds.

Response to Comment 45-E-9: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

This comment concerns identifying products as recyclable, which is beyond the scope of the RDRS regulations, which simply collect data. The RDRS regulations

cannot establish recycling requirements or on-ramps to meeting those requirements.

8. CalRecycle Response: Source Sector

CalRecycle received seven comments that related to source sector. These comments (comment code 45-E-5B, 45-E-6D, 45-E-8E, 45-E-8F, 45-E-8G, 45-T-10C, and 45-T-11) and CalRecycle's response are summarized below.

Comment 45-E-5B, 45-E-6D, 45-E-8E, 45-T-10C, and 45-T-11

Comment Code 45-E-5B, 45-E-6D, 45-E-8E, 45-T-10C, and 45-T-11:

CalRecycle received five comments requesting that the distinction between residential and commercial self-haul be removed from the definition of and reporting requirements for source sector.

Response to Comment 45-E-5B, 45-E-6D, 45-E-8E, 45-T-10C, and 45-T-11:

CalRecycle accepts these comments. The regulatory changes that split self-haul into self-haul residential and self-haul commercial were removed. Note that because collection method was also defined to include source sector, collection method reporting was altered to eliminate the distinction between self-haul residential and commercial. For the changes to source sector, see subsections 18815.9(c)(1)(A), 18815.9(c)(1)(D), 18815.9(c)(2)(A), 18815.9(c)(2)(D), 18815.9(c)(4), and 18815.9(l)(3)(c)(i). For the change to collection method, see 18815.2(a)(10.5)(A).

In addition, when CalRecycle updated the regulations to remove the distinction between residential and commercial self-haul, CalRecycle clarified the regulations regarding source sector of disaster debris and designated waste. Existing regulations require that designated waste and disaster debris always be classified as self-haul (18815.9(c)(5) and (d)(4)). Because of this requirement, reporting entities should not need to report source sector for designated waste and disaster debris, and in fact transfer/processors report source sector only for solid waste (18815.5(a)(3)(B)). Thus, CalRecycle simplified the source sector regulations by:

- Updating 18815.6(a)(2)(B) to explain that disposal facilities report source sector only for solid waste disposed.
- Editing 18815.9(c)(5) and 18815.9(d)(4) to explain that designated waste and disaster debris shall not be assigned to a source sector (which is effectively the same thing as never reporting source sector for these streams).

Comment 45-E-8F and 45-E-8G

Comment Code 45-E-8F and 45-E-8G: CalRecycle received two comments asking that the new category of source sector (defined in 18815.2(a)(58)(D)) be clarified.

Response to Comment 45-E-8F and 45-E-8G: CalRecycle accepts these comments. The new source sector category was removed.

The new source sector category was removed because CalRecycle eliminated the distinction between residential and commercial self-haul. Given stakeholder feedback that splitting self-haul into residential and commercial was not worthwhile, CalRecycle decided that the new fourth category of source sector would provide limited benefit relative to cost to the regulated community. Thus, CalRecycle reverted source sector to its original form, which did not include the fourth category. See subsections 18815.2(a)(58), 18815.9(c)(6), and 18815.9(c)(7) (the (7) that was struck out).

Note that within 18815.9(c), the last paragraph was renumbered from (8) to (7) because the original paragraph (7) was deleted. The renumbering of (8) to (7) is nonsubstantive and without regulatory effect.

9. CalRecycle Response: Other

CalRecycle received 15 comments that related to multiple comment categories, that did not relate to the regulations, or that otherwise were not able to be categorized into one of the other categories. These comments (comment code 45-E-1, 45-E-1C, 45-E-1E, 45-E-1F, 45-E-1G, 45-E-2, 45-E-3, 45-E-7, 45-E-7A, 45-E-7B, 45-E-8, 45-T-10, 45-T-12, 45-T-13, and 45-T-15) and CalRecycle's response are summarized below.

Comment 45-E-1

Comment Code 45-E-1: CalRecycle received one comment asking whether a line from the NOPA, which references "these statutes," applies only to recyclables, rather than food waste.

Response to Comment 45-E-1: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Instead, this comment is asking about a line from the NOPA. "These statutes" refers to AB 881 and SB 343. AB 881 focuses on exported mixed plastics, which may or may not be recycled. SB 343 focuses on providing "information to the public sufficient for evaluating whether a product or packaging is recyclable in the state...and [is] of material types and forms that routinely [become] feedstock used in the production of new products or packaging" (PRC 42355.51(d)(1)).

Comment 45-E-1C

Comment Code 45-E-1C: CalRecycle received one comment asking whether the determination that the regulations do not impose a mandate on school districts means that the regulations do not apply to school districts.

Response to Comment 45-E-1C: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

The quoted text is from the NOPA and is part of the rulemaking process. The California Constitution requires that whenever a state agency mandates a new program or higher level of service from a local agency or school district, that the state reimburse the local entity. As part of the rulemaking, CalRecycle has to determine whether the new regulations would create this mandate or higher level of service and thus require reimbursement. CalRecycle has determined that the proposed regulations would not require reimbursement. This determination has no bearing on whether any entity must report in RDRS.

Comment 45-E-1E

Comment Code 45-E-1E: CalRecycle received one comment asking whether a chain of custody is maintained for flows of artificial turf fields and whether artificial turf is considered recyclable.

Response to Comment 45-E-1E: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Whether a material is considered recyclable is not covered by the RDRS regulations. However, if RDRS reporting entities report sending artificial turf fields to disposal, then jurisdiction of origin (i.e., the location from which the materials originated) would be tracked for these tons. But, note that jurisdiction of origin would be tracked for the solid waste disposed as a group, not specifically for each material type in that solid waste.

Comment 45-E-1F and 45-E-1G

Comment Code 45-E-1F and 45-E-1G: CalRecycle received two comments asking how the proposed regulations apply to food waste diversion at schools.

Response to Comment 45-E-1F and 45-E-1G: CalRecycle rejects these comments. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Organics collection requirements are controlled by SB 1383 and corresponding regulations. Please visit this website for further information about SB 1383 requirements: <https://calrecycle.ca.gov/organics/slcp/>

Comment 45-E-2

Comment Code 45-E-2: CalRecycle received one comment alleging non-compliance with the RDRS regulations by several other entities.

Response to Comment 45-E-2: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Complaints against parties that are not reporting or misreporting in RDRS should be directed to CalRecycle's RDRS complaints page.

<https://www2.calrecycle.ca.gov/RecyclingDisposalReporting/Complaints>.

Comment 45-E-3

Comment Code 45-E-3: CalRecycle received one comment that the provided Zoom link for the 45-day public hearing was incorrect.

Response to Comment 45-E-3: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

The Zoom link was updated.

Comment 45-E-7

Comment Code 45-E-7: CalRecycle received one comment asking what happens if a city accepts more material for recycling than what is contained within CalRecycle's "final list."

Response to Comment 45-E-7: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Assuming the "final list" refers to the list of materials present within RDRS, and assuming the question concerns how reporting entities report in RDRS, then note that the RDRS online interface allows users to choose an "other" option and enter new material types. Stakeholders can also request that CalRecycle add additional materials to the list of options within RDRS.

Assuming the "final list" refers to the list of materials that CalRecycle will publish pursuant to SB 343, then nothing happens. SB 343 does not stop jurisdictions from accepting materials for recycling. Rather, SB 343 regulates the use of the chasing

arrows symbol on products and packaging. To this end, SB 343 requires CalRecycle to publish information that others can use to determine whether products and packaging meet SB 343's requirements for the use of the chasing arrows symbol. If a city accepts materials for recycling that are not included in the information that CalRecycle publishes pursuant to SB 343, then nothing happens to the city. Rather, entities that want to label their products and packaging with the chasing arrows symbol would have to use other sources of information to justify that labeling.

Comment 45-E-7A, 45-E-7B and 45-T-13

Comment Code 45-E-7A, 45-E-7B, and 45-T-13: CalRecycle received three comments asking whether cities will have to stop collecting extra material for recycling, or whether cities will be allowed to continue collecting that extra material (where "extra" means material that is not included in CalRecycle's "final list", as discussed in Comment 22).

Response to Comment 45-E-7A, 45-E-7B, and 45-T-13: CalRecycle rejects these comments. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

RDRS regulations and SB 343 statute do not impose restrictions on what cities can or cannot collect for recycling. SB 343 instead dictates criteria that materials have to meet in order to be labelled with the chasing arrows symbol.

Comment 45-E-8

Comment Code 45-E-8: CalRecycle received one comment identifying the commenters and where CalRecycle could direct questions if CalRecycle had questions about the comment.

Response to Comment 45-E-8: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Comment 45-T-10

Comment Code 45-T-10: CalRecycle received one comment asking whether CalRecycle anticipating holding a 15-day comment period after the initial 45-day comment period.

Response to Comment 45-T-10: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Response from Kris Chisholm at Public Hearing: “We haven't made the decision on whether or not to incorporate comments into the rulemaking to change the regulations as they're currently drafted. We'll be making those decisions after we receive all comments at the end of the 45-day period.”

Comment 45-T-12

Comment Code 45-T-12: CalRecycle received one comment during the 45-day public hearing that expressed support for earlier comments provided regarding the timing of the regulations (i.e., starting the new regulations later than 2024 Q4), the separation of self-haul into commercial and residential components (i.e., not doing so), and collection method.

Response to Comment 45-T-12: For the timing of regulations, see CalRecycle’s response to Comment 45-E-6C. For the self-haul issue, see CalRecycle’s response to comment 45-E-5B. For the the collection method issue, see CalRecycle’s response to comment 45-E-8A.

Comment 45-T-15

Comment Code 45-T-15: CalRecycle received one comment asserting that the proposed regulations could not be complied with because reporting entities cannot know the final destination of recyclables.

Response to Comment 45-T-15: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

To the extent that the comment claims that the regulations could not be complied with because facilities do not know, and therefore cannot report, materials’ final destinations, the comment misstates reporting obligations and thus does not merit any modification to the proposed regulations. The comment refers to the situation in which a reporting entity A sends materials to a destination 1, and destination 1 then itself sends materials to another destination, destination 2. The commenter claims that reporting entity A cannot determine the identity of destination 2 and thus cannot report that information. However, existing and proposed regulations do not require entity A to report destination 2. Reporting entity A must determine and report only destination 1.

Summary and Response to Comments Received During the First 15-Day Comment Period

Summary of Comments Received

Written comments were received by CalRecycle during the first 15-day comment period, which began on July 12, 2023 and ended on July 27, 2023.

The comments received during the first 15-day comment period are contained within the attached "RDRS Comment Matrix.docx" file. The file shows the corresponding comment code, California Code of Regulations (CCR) section that the comment is in reference to (if applicable), the commenter's name, their organization, and CalRecycle's response to the comment.

During the first 15-day comment period, CalRecycle received comments from two interested parties. CalRecycle organized these comments into three separate items. Using the same categories as for the 45-day comments, the first 15-day comments fell into the following categories: Comment in Support; Reporting and/or Registration; and Mixed Plastics Export. Please refer to the RDRS Comment Matrix, as well the attached PDF of comments received, to review the comments received.

CalRecycle's Response to Comments Received

CalRecycle would like to express its appreciation to the organizations, agencies, and individuals that participated in the 15-day comment period. CalRecycle concluded that no changes to the proposed regulations were necessary based on comments received during the 15-day comment period.

The comments and CalRecycle's responses are summarized below. Comment letters received during the public comment period, as well as the RDRS Comment Matrix file, which includes CalRecycle's responses, are posted on the [RDRS rulemaking website](#).

1. Comments in Support

CalRecycle received one comment (15-E-1) supporting the objectives and goals of the Recycling and Disposal Reporting System Regulatory Permanent Regulations.

Agency Response (to all comments in support): CalRecycle notes no changes are needed in the proposed regulations and acknowledges the general support expressed by this comment.

2. CalRecycle Response: Registration and/or Reporting

CalRecycle received one comment that related to general registration and reporting topics in the RDRS regulations. This comment (comment code 15-E-1A) and CalRecycle's response are summarized below.

Comment 15-E-1A

Comment Code 15-E-1A: CalRecycle received one comment asking the department to provide technical support and training when the new regulations take effect.

Response to Comment 15-E-1A: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

3. CalRecycle Response: Mixed Plastics Export

CalRecycle received one comment that related to the new regulations regarding reporting of exported mixed plastic. This comment (comment code 15-E-2) and CalRecycle's response are summarized below.

Comment 15-E-2

Comment Code 15-E-2: CalRecycle received one comment stipulating that classifying exported mixed plastic waste would burden local jurisdictions. The comment asked CalRecycle to consider such burdens when formulating the regulations.

Response to Comment 15-E-2: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

However, to the extent that the comment implies that exported mixed plastic waste should not be classified as disposal by the regulations, that disposal classification comes directly from AB 881 (PRC 41781.4). CalRecycle is simply codifying in regulation what is already required by statute. CalRecycle has no authority to modify the statutory requirement that exported mixed plastic be considered disposal for the purposes of recycling/diversion credit.

Summary and Response to Comments Received During the Second 15-Day Comment Period

Summary of Comments Received

Written comments were received by CalRecycle during the second 15-day comment period, which began on November 8, 2023 and ended on November 27, 2023.

The comments received during the second 15-day comment period are contained within the attached "RDRS Comment Matrix.docx" file. The file shows the corresponding comment code, California Code of Regulations (CCR) section that the comment is in reference to (if applicable), the commenter's name, their organization, and CalRecycle's response to the comment.

During the second 15-day comment period, CalRecycle received comments from three interested parties. CalRecycle organized these comments into 11 separate items. Using the same categories as for the 45-day comments, CalRecycle grouped the second 15-day comments into five categories: Comment in Support; Reporting and/or Registration; Mixed Plastics Export, Collection Method, and Other. Please refer to the RDRS Comment Matrix, as well the attached PDF of comments received, to review the comments received.

CalRecycle's Response to Comments Received

CalRecycle would like to express its appreciation to the organizations, agencies, and individuals that participated in the second 15-day comment period. CalRecycle concluded that no changes to the proposed regulations were necessary based on comments received during the 15-day comment period.

The comments and CalRecycle's responses are summarized below. Comment letters received during the public comment period, as well as the RDRS Comment Matrix file, which includes CalRecycle's responses, are posted on the [RDRS rulemaking website](#).

1. Comments in Support

CalRecycle received one comment (15B-E-3) supporting the objectives and goals of the Recycling and Disposal Reporting System Regulatory Permanent Regulations.

Agency Response (to all comments in support): CalRecycle notes no changes are needed in the proposed regulations and acknowledges the general support expressed by this comment.

2. CalRecycle Response: Registration and/or Reporting

CalRecycle received two comments that related to general registration and reporting topics in the RDRS regulations. These comments (comment codes 15B-E-2C and 15B-E-3A) and CalRecycle's responses are summarized below.

Comment 15B-E-2C

Comment Code 15B-E-2C: CalRecycle received one comment asking the department to clarify the resolution process for discrepancies among quarterly reports.

Response to Comment 15B-E-2C: CalRecycle rejects this comment. The second 15-day comment period concerns only the changes made to the regulatory text in the second 15-day comment period. Because the relevant subsection, 18815.3(n)(5), for this comment was not modified in the second 15-day comment period, no response is required.

Comment 15B-E-3A

Comment Code 15B-E-3A: CalRecycle received one comment asking the department to provide training for the new reporting requirements.

Response to Comment 15B-E-3A: CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

3. CalRecycle Response: Mixed Plastics Export

CalRecycle received four comments that related to the regulations regarding reporting of exported mixed plastic. These comments (comment codes 15B-E-2A, 15B-E-2B, 15B-E-2D, and 15B-E-2E) and CalRecycle's responses are summarized below.

Comment 15B-E-2A

Comment Code 15B-E-2A: CalRecycle received one comment asking why subsection 18815.2(a)(38.4) defines mixed plastic waste to include "high density polyethylene" while PRC 41781.4 uses the term, "polyethylene."

Response to Comment 15B-E-2A: CalRecycle rejects this comment. The second 15-day comment period concerns only the changes made to the regulatory text in the second 15-day comment period. Because the relevant subsection, 18815.2(a)(38.4), for this comment was not modified in the second 15-day comment period, no response is required.

Nevertheless, CalRecycle notes that, although PRC section 41781.4 refers to “polyethylene,” section 41821.5(b)(4)(A) only identified mixed plastic waste consisting solely of resin numbers 1, 2, 5, or a combination of those resin types as those that could be exempt from the requirement that jurisdiction of origin be reported for exported mixed plastic waste. As such, the regulation excludes the resins corresponding to those numbers (respectively, polyethylene terephthalate, high-density polyethylene, and polypropylene) from the definition of “mixed plastic waste.” Moreover, because low-density polyethylene (resin number 4) is rarely recycled, excluding it from the definition of “mixed plastic waste” is consistent with the Legislature’s intent that plastic waste exports be considered disposal unless it comprises only plastics that are destined for recycling.

Comment 15B-E-2B

Comment Code 15B-E-2B: CalRecycle received one comment asking whether the regulatory definition of export, 18815.2(a)(25.5), which excludes a phrase used in statute, was supposed to differ materially from the definition in statute (PRC 41781.4).

Response to Comment 15B-E-2B: CalRecycle rejects this comment. The second 15-day comment period concerns only the changes made to the regulatory text in the second 15-day comment period. Because the relevant subsection, 18815.2(a)(25.5), for this comment was not modified in the second 15-day comment period, no response is required.

However, CalRecycle notes that the omitted phrase is included by reference in the definition of “export,” which states that export has the same meaning as PRC 41781.4.

Comment 15B-E-2D

Comment Code 15B-E-2D: CalRecycle received one comment asking what material types and destination regions contract haulers should use to report exported mixed plastic waste.

Response to Comment 15B-E-2D: CalRecycle rejects this comment. The second 15-day comment period concerns only the changes made to the regulatory text in the second 15-day comment period. Because the relevant subsection, 18815.4(d)(3), for this comment was not modified in the second 15-day comment period, no response is required.

Nevertheless, CalRecycle notes that material type reporting for contract haulers reporting exported mixed plastic waste is described in 18815.9(a)(1)(D)(ii), which refers readers to 18815.9(a)(2) (for materials not expressly addressed in clause (i)).

Destination regions are defined in 18815.2(a)(k)(1).

Comment 15B-E-2E

Comment Code 15B-E-2E: CalRecycle received one comment asking whether jurisdiction of origin for exported mixed plastic waste would be reported separately for each material type and destination region.

Response to Comment 15B-E-2E: CalRecycle rejects this comment. The second 15-day comment period concerns only the changes made to the regulatory text in the second 15-day comment period. Because the relevant subsection, 18815.9(j)(8.5), for this comment was not modified in the second 15-day comment period, no response is required.

However, CalRecycle notes that, for exported mixed plastic waste, the jurisdiction of origin will be reported summed across material types and destination regions. For example, if 100 tons plastic #6 were exported to Malaysia and 100 tons plastic #7 were exported to Thailand, then the origins would be reported for the 200 tons exported in total (e.g., 50 tons from Sacramento, 75 tons from Roseville, and 75 tons from San Francisco). The regulations will not require users to enter separate origins for each material type and destination region.

4. CalRecycle Response: Collection Method

CalRecycle received two comments related to collection method. These comments (comment code 15B-E-2 and 15B-E-2F) and CalRecycle's responses are summarized below.

Comment 15B-E-2

Comment Code 15B-E-2: CalRecycle received one comment asking for more examples of collection methods in the definition.

Response to Comment 15B-E-2: CalRecycle rejects this comment. The second 15-day comment period concerns only the changes made to the regulatory text in the second 15-day comment period. Because the relevant subsection, 18815.2(a)(10.5), for this comment was not modified in the second 15-day comment period, no response is required.

Comment 15B-E-2F

Comment Code 15B-E-2F: CalRecycle received one comment asking for clarification of how collection method is to be determined.

Response to Comment 15B-E-2F: CalRecycle rejects this comment. The second 15-day comment period concerns only the changes made to the regulatory text in the second 15-day comment period. Because the relevant subsection, 18815.9(l), for this comment was not modified in the second 15-day comment period, no response is required.

5. CalRecycle Response: Other

CalRecycle received two comments that did not relate to the substance of the regulations. These comments (comment code 15B-E-1 and 15B-E-3B) and CalRecycle's response are summarized below.

Comment 15B-E-1

Comment Code 15B-E-1: CalRecycle received one comment asking whether the second 15-day comment period would end on Thanksgiving (November 23, 2023).

Response to Comment 15B-E-1: The comment period was extended to November 27, 2023.

Comment 15B-E-3B

Comment Code 15B-E-3B: CalRecycle received one comment thanking CalRecycle for the participation opportunity and requesting further opportunities to engage with CalRecycle regarding the regulations.

Response to Comment 15B-E-3B: No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.