

STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

IN THE MATTER OF:

PUBLIC FORMAL RULEMAKING HEARING

SB 1383

REDUCING SHORT-LIVED CLIMATE

POLLUTANTS IN CALIFORNIA

---

TRANSCRIPT OF PROCEEDINGS

MARCH 12, 2019

PAGES 1 - 260

JOE SERNA JR. - CALEPA BUILDING

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

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## I N D E X

	PAGE
Rulemaking Overview - Hank Brady, CalRecycle	1
Landfill Disposal and Reductions in Landfill Disposal - Article 2	
Hank Brady, CalRecycle	33
Mary Jane Coombs, California Air Resources Board	37
Collection and Planning - Articles 3-5, 7, 8 and 11	
Cara Morgan, CalRecycle	50
Howard Levenson, CalRecycle	61
Edible Food Recovery - Articles 4 and 10	
Kyle Pogue, CalRecycle	115
Martine Boswell, CalRecycle	119
Lunch Break	
Solid Waste Facilities - Article 6 and Amendments to Title 14 and 27	144
Beatrice Poroli, CalRecycle	
Mark de Bie, CalRecycle	
Procurement - Article 12	173
Michelle Slocombe, CalRecycle	
Scott Beckner, CalRecycle	
Jurisdiction Reporting, Compliance and Enforcement Articles 13-16	224
Georgianne Turner, CalRecycle	
Mark de Brie, CalRecycle	
Trisha Moore, CalRecycle	

1 TUESDAY, MARCH 12, 2019

9:03 A.M.

2 ----oOo----

3  
4 MR. BRADY: Okay, we're going to get  
5 started now. So, has anyone done any good reading  
6 in the last couple months?

7 Okay, before getting started, a couple  
8 housekeeping things. A fire/life safety  
9 announcement. Is there is an emergency, an alarm  
10 will sound and you can follow CalRecycle staff, who  
11 are all along this wall, out the double doors, down  
12 the stairs, and out into the park.

13 Before getting started, I did want to send  
14 a thank you to everyone that submitted written  
15 comments throughout the informal process and now in  
16 the formal process. We've had a very robust level  
17 of participation and that's really provided a lot  
18 of good guidance for us as we've developed the  
19 regulations.

20 Before getting started I'm going to,  
21 today, review the agenda and logistics for the  
22 hearing, and provide some background on SB 1383 and  
23 some of the policy drivers, and statutory  
24 direction, as well as an overview of the rulemaking  
25 process.

1           So, for the structure of the hearing  
2 today, the way we've designed this is to provide  
3 brief presentations on the major sections of the  
4 regulations and then hold public testimony after  
5 each section, so people can focus their comments on  
6 those specific aspects of the regulations.

7           For the morning, we're going to cover  
8 three sections in addition to this overview. Cover  
9 landfill disposal and reductions in landfill  
10 disposal, collection and planning, and edible food  
11 recovery.

12           We'll then break and come back in the  
13 afternoon to cover solid waste facility  
14 requirements, procurement requirements, and  
15 enforcement.

16           A couple of things on hearing logistics  
17 and this is actually quite a few, so if you forgive  
18 me for reading for a minute here.

19           The hearing's not the same as our typical  
20 public workshops we've held over the past two  
21 years. All the comments made today will be  
22 catalogued, along with the written comments  
23 submitted by March 4th, at 5:00 p.m.

24           The primary purpose today is to record and  
25 catalogue comments and recommendations so we can

1 respond how the proposed regulations will change to  
2 accommodate recommendations or any reasons for not  
3 making changes.

4 Today, at the hearing, we may respond to  
5 minor technical questions or ask clarifying  
6 questions of those providing testimony, but the  
7 primary purpose of the hearing today is to receive  
8 comments on the regulations, as opposed to debating  
9 the merits of the legislation or the regulations.

10 For providing public testimony during each  
11 comment period, the microphone for public testimony  
12 is available in the center. And we'll ask that  
13 each person that wishes to speak line up to provide  
14 testimony, so we know how many people are providing  
15 testimony and whether or not we need to limit the  
16 amount of testimony to accommodate the number of  
17 speakers.

18 If public testimony on a given section is  
19 completed early, we're going to begin the next  
20 portion of the hearing. So, if the presentation  
21 and comments on collections ends at 10:50, we'll  
22 start the food recovery presentation and testimony  
23 at 10:50, instead of 11:15.

24 We do have a court reporter in the room to  
25 catalogue testimony. So, each time you make a



1 comment, please clearly identify your name and any  
2 affiliation. And if you do have a business card,  
3 we will have someone to collect those. It helps  
4 for the court reporter to capture name and  
5 affiliation associated with the comments.

6 Additionally, if you have a written copy  
7 of your testimony, if you can please provide a copy  
8 of that when you make your comment, as well, to  
9 help ensure the comment is captured accurately.  
10 And there's a box right at the end of the table,  
11 where letters and written testimony can be placed.

12 Also, for the court reporter, if you  
13 please refrain to the extent possible from using  
14 jargon or acronyms. Call RNG renewable natural  
15 gas. Call MRFs material recovery facilities. It  
16 helps ensure that we can capture comments  
17 accurately. And we'll try to do that ourselves, as  
18 well.

19 For online participation, for those  
20 watching on the webcast, if you would like to enter  
21 a comment into the record, please submit a comment  
22 that can be read aloud to the SLCP inbox that's  
23 noted on the screen right now. Our staff will read  
24 these comments so they can be captured as public  
25 testimony by the court reporter and entered into

1 the record.

2           If we're not able to read your comment  
3 aloud, it will still be entered into the record and  
4 considered as a formal comment.

5           And then for closing, after the final  
6 presentation this afternoon we will continue to  
7 accept general testimony on the regulations until  
8 all the comments are complete.

9           And then, for those that submitted -- if  
10 you submitted a formal letter, we have your  
11 comment. There's no need to restate what's in your  
12 letter. You're certainly welcome to do so, but if  
13 you submitted it by March 4th, at 5 o'clock, we've  
14 captured your comment.

15           Okay, sorry, that was quite a bit. So,  
16 moving into what should be some pretty familiar  
17 background for everyone here, just to provide  
18 context for the day, we're going to talk about some  
19 of the background for SB 1383 and the State's  
20 Climate Change Scoping Plan. And then, some of the  
21 nuances of the law and how that governs how we've  
22 designed the regulations.

23           So, the organic waste reduction  
24 requirements that we're talking about today are  
25 essentially an extension of California's Climate

1 Change Scoping Plan. The scoping plan calls for  
2 emission reductions in every sector of the economy,  
3 from transportation to energy, to agriculture, to  
4 waste and many other sectors.

5 The Short-lived Climate Pollutant Strategy  
6 is one of the actions called for in the scoping  
7 plan to achieve emission reductions. And the  
8 strategy calls for immediate and long-term  
9 reductions of the most potent greenhouse gases of  
10 methane, black carbon, and fluorinated gas.

11 The strategy affects multiple sectors of  
12 the economy and it specifically calls for  
13 reductions in organic waste disposal.

14 The Short-lived Climate Pollutant Strategy  
15 focuses on these climate pollutants because of  
16 their outsized warming potential. And the strategy  
17 includes specific waste sector targets because  
18 organic waste disposal creates methane. Methane  
19 gas is 72 times more potent than carbon dioxide  
20 over a 20-year horizon. And reducing short-lived  
21 pollutants, such as methane, can significantly  
22 reduce the impacts of climate change in the near  
23 future.

24 This is critical as the State is already  
25 experiencing the impacts of climate changes as

1 extreme temperatures, droughts, and natural  
2 disasters impact public health, the environment,  
3 and our economy.

4 And the efforts that we're outlining today  
5 in the regulations are necessary to help protect  
6 the public from these impacts.

7 I'm having a little difficulty here.  
8 Sorry, for those online, we're just having  
9 difficulty advancing the slide, if you'll just give  
10 us a moment.

11 (Pause)

12 MR. BRADY: So, Chris, I'll just let you  
13 know when to click until this starts working again.

14 So, the climate change targets for the  
15 waste sector also represent the next step in  
16 California's nation-leading recycling efforts.  
17 Organic waste represents two-thirds of the total  
18 disposal stream and recovering this material  
19 through recycling will help us develop a more  
20 sustainable economy and a healthier environment.

21 Further, food waste represents the largest  
22 single category of landfill material in California.  
23 And a portion of that disposed food could have been  
24 recovered and diverted to feed the one-in-eight  
25 Californian's who go hungry every day.

1 SB 1383 directs the State to adopt  
2 regulations designed to meet strict organic waste  
3 disposal and edible food recovery targets.  
4 Implementing these targets will help California  
5 meet its recycling goals and transition to a more  
6 sustainable economy.

7 You can go back one. So, these targets  
8 should be familiar with everyone by now. The  
9 statute requires CalRecycle to adopt regulations  
10 designed to achieve a 50 percent reduction in  
11 organic waste disposal by 2020, 75 percent  
12 reduction in organic waste disposal by 2025. And  
13 these figures are tied to the 2014 baseline of 23  
14 million tons. And that translated to roughly a  
15 requirement that the State reduce disposal to no  
16 more than 6 million, at around 5.7 million tons by  
17 2025.

18 In adopting regulations to achieve the  
19 targets, the legislation also specifically directs  
20 CalRecycle to include requirements designed to  
21 recover 20 percent of edible food that is currently  
22 disposed, by 2025.

23 So, this timeline covers the period from  
24 the law's adoption, roughly two and a half years  
25 ago, through the key reduction targets in 2025.

1 After the law's passage began, two years of  
2 informal -- after the law's passage, CalRecycle  
3 began two years of informal rulemaking to vet  
4 regulatory concepts. And we're now in the formal  
5 rulemaking process, which officially began on  
6 January 18th of this year, and is scheduled to  
7 conclude by the end of 2019. Regulations, of  
8 course, take effect and become enforceable in 2022.

9 And then, finally, in advance of the 2025  
10 targets, the regulations will require jurisdictions  
11 to take enforcement action against noncompliant  
12 entities beginning in 2024.

13 While the key target dates should be well-  
14 known to everyone in this room, there are nuances  
15 in what the legislation specifically requires,  
16 permits and prohibits. Understanding these  
17 provisions is critical to understanding the design  
18 of the various regulatory requirements that will be  
19 presented on today.

20 I'm now going to walk through some of  
21 those nuances. The legislation requires that in  
22 developing the regulations CalRecycle consult with  
23 the California Air Resources Board. And the  
24 legislation further directs agencies implementing  
25 aspects of SB 1383, including CalRecycle, to design

1 their policies consistent with the Short-lived  
2 Climate Pollutant Strategy and the Integrated  
3 Energy Policy Report, and to implement policies  
4 that support the use of biomethane from solid waste  
5 facilities.

6 And as note before, the regulations  
7 specifically require that CalRecycle include  
8 requirements designed to recover 20 percent of  
9 currently disposed edible food.

10 The legislation and the statute specifies  
11 that the regulations may impose penalties on  
12 regulated entities. And they may require  
13 jurisdictions to impose requirements on relevant  
14 entities. And they may establish different levels  
15 of requirements for jurisdictions.

16 Finally, the legislation prohibited  
17 CalRecycle from including several provisions in the  
18 regulations. Specifically, CalRecycle is  
19 prohibited from imposing an organic waste ban on  
20 landfills, from requiring jurisdictions to levy  
21 penalties prior to 2024 for noncompliance. And  
22 CalRecycle is prohibited a 50- and 75-percent  
23 recycling target on individual jurisdictions, which  
24 is the primary distinction from previous solid  
25 waste mandates, such as AB 939, which were

1 diversion mandates on individual jurisdictions.

2 This is a diversion target that the State has to  
3 achieve.

4 Again, this is the same outline that was  
5 on a previous slide, but just notes that the  
6 regulations take effect in 2022, two years after  
7 the initial target date.

8 And the Governor's signing message on SB  
9 1383 called for an array of strategies to redirect  
10 organic waste to more productive uses that reduce  
11 emissions.

12 At today's hearing, CalRecycle staff will  
13 provide a brief overview of the strategies these  
14 regulations implement in order to achieve the waste  
15 sector targets. The regulations place an array of  
16 direct and indirect regulatory requirements on all  
17 of the entities noted here on this slide. All of  
18 these strategies are designed to ultimately achieve  
19 the SB 1383 organic waste reduction and food  
20 recovery targets.

21 And then, before opening up to general  
22 comments, just a quick overview of where we are and  
23 some of the milestones in the formal rulemaking  
24 process. As part of the notice package submitted  
25 to the Office of Administrative Law, CalRecycle



1 provided the formal regulatory text, the initial  
2 statement of reasons, and the standardized  
3 regulatory impact assessment, which was posted by  
4 the Department of Finance in November of 2018.  
5 That was all in advance of the 45-day comment  
6 period that we are currently at the conclusion of.  
7 It concluded on March 4th. And this hearing  
8 represents another opportunity to provide comments  
9 on the initial regulatory text.

10 Concurrent to the rulemaking process,  
11 CalRecycle held two CEQA scoping meetings to scope  
12 out potential considerations for the environmental  
13 impact report that will be done hand in hand, as  
14 the rulemaking is completed.

15 Finally, after the hearing today,  
16 CalRecycle staff will be reviewing comments that  
17 were submitted by March 4th and comments that we  
18 receive today, and making text revisions to the  
19 draft regulatory text, or preparing responses  
20 explaining why we're not changing the text in  
21 response to a comment.

22 When we have a revised draft of regulatory  
23 text, we anticipate in late spring, that will be  
24 subject to a 15-day comment period, and there will  
25 also be a rulemaking hearing to solicit comments on

1 that.

2 So, with that, at this point before we  
3 move into the more specific presentations on  
4 various sections of the regulations, I want to open  
5 it up to public testimony for general comments on  
6 SB 1383.

7 If anyone would like to speak, if you line  
8 up behind the microphone and state your name, and  
9 any relevant affiliation. And again, if you have a  
10 copy of written testimony, please provide that.

11 And then, finally, for online  
12 participants, if you submit your comments to the  
13 SLCP inbox, we will read that out loud.

14 Never one not to make a comment. You do  
15 have to press the button on the microphone. It  
16 should turn green and then it will be on for you.

17 MR. EDGAR: Evan Edgar, Edgar Associates.  
18 I'm here on behalf of California Compost Coalition.

19 Can you go to slide number three? Hello,  
20 can you go to climate change strategy, slide number  
21 three? That one right there.

22 SB 1383 is very important. It's one of  
23 the five different pillars of the Governor's plan  
24 to reduce methane. But most important, we have to  
25 get out of the silos.

1           What's also going on today is procurement  
2 of the compost that comes from the reduction of  
3 methane and the RNG, the renewable natural gas, and  
4 the bioenergy.

5           So, this is a case where one silo here  
6 with regards to the short-lived pollutants, but  
7 what's important is that the other silos need to be  
8 mentioned as well, which you do later on today with  
9 regards to the compost market development to  
10 sequester carbon in a land base, in order to create  
11 RNG for the -- get off petroleum, and add on  
12 bioenergy for woodchip.

13           So, in the future, it would be nice to  
14 kind of look at the holistic picture. So, that's  
15 why this year we're looking at AB 144, and it's  
16 called the organic waste scoping plan, to kind of  
17 get out of their silos and try to have some type of  
18 cross-relational aspects of organic waste.

19           So, this slide kind of demonstrates  
20 everybody's in their silos. And as we move  
21 forward, it would be nice to get out of the silos  
22 and try to have that type of interrelation with the  
23 market development of organic products.

24           Thank you.

25           MR. BRADY: Thanks.

1 MS. PARDO: Hi, Veronica Pardo, California  
2 Refuse Recycling Council, Northern District. I  
3 notice we're not going to be discussing Article 1  
4 today that has a variety of definitions.

5 I know we're not the only stakeholder  
6 community that's concerned about the organic waste  
7 definition. And I just want to reiterate that we'd  
8 like to see that definition be limited in scope to  
9 food waste, green waste, landscape and pruning  
10 waste, nonhazardous wood waste, and food-soiled  
11 paper as we see in AB 1826.

12 And to that point, as we discussed and  
13 we'll discuss this later, the source-separated  
14 organic waste faction, we really see this looking  
15 at that green container and looking for that  
16 separate, you know, food waste focus. Not, you  
17 know, your carpet, your hazardous wood waste, or  
18 noncompostable paper.

19 And to that point, the recyclable  
20 commodities that are tersely in the blue bin  
21 remaining in the blue bin and being managed as they  
22 have been under the 939 and 341 frame work. So,  
23 thank you.

24 MS. SCHEIBLY: Kim Scheibly, Marin  
25 Sanitary Service. I'm the Director of Compliance

1 and Customer Relations. We submitted comments as a  
2 company, so I will not be repeating those.

3 But on my drive over this morning, from  
4 San Rafael, watching the sun rise, I started  
5 thinking about AB 341 and its goals to skyrocket  
6 recycling, the recycling rate in California. Every  
7 year since that legislation in 2012, the recycling  
8 rate has declined.

9 And so, I'm thinking about SB 1383 and its  
10 goals. It's a good law. The intent of the law is  
11 good. But are we thinking that AB 341 didn't  
12 succeed because we didn't have daily, weekly,  
13 monthly, quarterly reporting, because we didn't  
14 have robust load-checking policies at our materials  
15 recovery facilities, because we didn't have  
16 outreach and education programs?

17 It just made me think what is the intent  
18 of all of the reporting requirements. Thank you.

19 MR. SCHIAVO: Hi, Pat Schiavo,  
20 representing CR&R Environmental. We're also very  
21 concerned regarding the inclusion of paper products  
22 in the definition of organics.

23 Since the 1980s, we've collectively, you  
24 know, the industry has invested billions of dollars  
25 for a pretty enhanced collection system. We're the

1 best in the country. Right now, because of China's  
2 National Sword and other conditions, because paper  
3 is an international commodity, we don't have  
4 anywhere to go with it because of those issues.

5 So, what's going to happen when we  
6 introduce another few million tons of paper into  
7 the system? Most likely, it's going to be getting  
8 disposed, which is already happening. This is just  
9 going to exacerbate the problem. What's going to  
10 happen with homeowners who are paying higher fees  
11 to have their so-called recyclables collected and  
12 find out they're going to be disposed? I think  
13 it's going to be a big, potential PR problem.

14 So, we'd like to see either a suspension  
15 or omission of paper from the definition. We  
16 already submitted written comments, as well.

17 MR. WIRAATMADJA: Hi, my name's Vince  
18 Wiraatmadja. I'm with the Weideman Group, here on  
19 behalf of Harvest Power. I just want to make some  
20 quick comments as we start off the day. We've  
21 already submitted written comments to this effect.

22 But we have three major points that we  
23 just want to reiterate. The first one is that in  
24 Article 12 procurements, the list of organic waste  
25 products eligible for procurement has to be

1 expanded well beyond the compost and transportation  
2 categories.

3 We don't want to prematurely cut off any  
4 new technologies that might be new products that  
5 come about as new technologies roll out into this  
6 space. And, specifically, we do want to see  
7 eligibility for pipeline injection of the renewable  
8 natural gas.

9 Second, we just want reiterate the need to  
10 adhere to the timeline. All of these projects take  
11 a lot of time to get up and running. The  
12 permitting-deciding, the actual building. And so,  
13 we need the regulatory certainty from like a strong  
14 adherence to the timeline to get the financing  
15 needed to build out these projects.

16 And, finally, the enforcement mechanism  
17 and strong enforcement at the back end. It's going  
18 to be necessary in order to provide that market  
19 certainty, once again for these investments.

20 Thanks.

21 MS. LEVIN: Good morning, Julia Levin with  
22 the Bioenergy Association of California. And we  
23 echo the previous comments.

24 We are going to make some comments later,  
25 on Article 12, similar, the importance to include

1 all eligible end uses and not limit them at the  
2 outset in the regulations. But to prepare for  
3 that, we also want to recommend two changes to  
4 Article 1, on the definitions.

5 Most importantly, there is no reason,  
6 legally or scientifically, to limit renewable  
7 transportation fuels to only the fuels that can be  
8 produced from anerobic digestion. And, in fact,  
9 the Air Resources Board right now is funding a  
10 study of converting urban wood waste, that would  
11 otherwise go to a landfill, as agricultural and  
12 forest wastes. But for CalRecycle purposes, the  
13 Air Board is already funding a study that would  
14 convert urban wood-based, through gasification, to  
15 pipeline biogas and then transportation fuel. And  
16 the regulations currently exclude a project that  
17 your sister agency is funding that would be carbon-  
18 negative transportation fuel from wood waste, that  
19 would otherwise go to a landfill.

20 So, we strongly urge CalRecycle to expand  
21 the definition in Article 1. It's definition  
22 number 62, of renewable transportation fuel, to  
23 include not just fuels produced from anerobic  
24 digestion, but fuels produced through gasification  
25 of other technologies consistent with Public



1 Resources Code 40106. 40106.

2 We also urge you to adopt a definition of  
3 renewable electricity so that when we get to  
4 Article 12 this afternoon, we can talk about other  
5 end uses of biogas. Because it doesn't make sense  
6 to have projects that are already producing  
7 electricity, like landfill gas, or wastewater  
8 treatment facilities that could take additional  
9 diverted organic waste, and exclude electricity as  
10 an end use.

11 So, we urge you to adopt a definition of  
12 renewable electricity in Article 1 as well. Thank  
13 you.

14 MR. BRADY: Thanks.

15 MR. BULLIS: Good morning, Cory Bullis on  
16 behalf of Rethink Waste. We're a joint powers  
17 authority in San Mateo County, formed in 1982.

18 I just wanted to provide a kind of a macro  
19 level comment that kind of applies across the board  
20 of a number of topics that you're going to get into  
21 today.

22 You know, we're extremely supportive of SB  
23 1383, and the goals, and what you're trying to  
24 achieve with these regulations. You know, as a  
25 local government we want to, you know, partner with

1 the State in being able to actually achieve these  
2 goals. But, admittedly, this is going to be a huge  
3 paradigm shift that's going to require us to build  
4 a lot of new technical expertise to actually,  
5 successfully implement these regulations and  
6 fulfill these goals.

7 So, we would just ask that once we get  
8 kind of through adopting the regulations that we  
9 work with you, CalRecycle, and receive technical  
10 support and guidance from you on how to actually  
11 achieve these things. Whether it's from  
12 implementing route reviews, or developing an  
13 ordinance, or calculating some of our targets for  
14 procurement of organic waste, or what have you,  
15 those are all things that we need to build new  
16 technical capacity for.

17 And as the agency that's the architect of  
18 the regulation, we would hope that you guys would  
19 be able to provide, you know, outreach, and  
20 support, and guidance to the locals. Thank you.

21 MR. BRADY: Thanks. And John, before you  
22 come up, just two things. One, to see if we have  
23 any comments in the inbox. But then, two, just on  
24 the general comment in terms of technical  
25 assistance, that's absolutely something we

1 appreciate and intend to fully do, both as the  
2 regulations are being developed and then as they're  
3 being implemented.

4           So, John, if you don't mind waiting, I  
5 just want to see if there's any online comments to  
6 read at this point.

7           MR. BRIA: Three questions, but they're  
8 more related to another section, rather than  
9 general comments.

10           MR. BRADY: Okay, if they're for another  
11 section, if you don't mind holding onto them and  
12 then we'll read them when we get to that section.

13           MR. DAVIS: John Davis, Mojave Desert &  
14 Mountain Joint Powers Authority. So, I did submit  
15 written comments, but I wanted to elaborate and  
16 emphasize on one across a number.

17           In the regulatory impact assessment, we've  
18 got to look at what CalRecycle anticipates the cost  
19 impacts to be, about \$17 a year on single-family  
20 residents.

21           The feedback I'm getting from our nine  
22 communities is it's substantially more than that in  
23 our area, and in some places it's multiples, you  
24 know, ten times to comply because of circumstances  
25 that we're still struggling to overcome in the

1 regulations.

2 All of our cities are economically  
3 disadvantaged by the State's own definition.  
4 CalRecycle recognizes the impacts on disadvantaged  
5 communities in some of the programs. And I'm  
6 asking that you consider that now, and particularly  
7 for economic disadvantaged communities.

8 We have a city that is at 40 percent of  
9 the statewide median. If, in fact, it was a \$17  
10 annual impact, the impact on a community that's 40  
11 percent is much greater than the median income  
12 community. So, that \$17 as a median, you're  
13 looking at somewhere above, close to \$40 of impact,  
14 actual, you know, real felt impact on a community  
15 at 40 percent. So, you know, please give some  
16 consideration for waivers and also extenuating  
17 circumstances for the financial impact of these  
18 regulations. There's a lot to do for some  
19 communities that are going to be struggling to  
20 reach that. So, thanks.

21 MR. BRADY: Thanks, John. And that's,  
22 yes, something we're sympathetic to and have tried  
23 to demonstrate in the previous versions and will  
24 continue to focus on as we move forward.

25 I do want to, just recognizing time, and

1 we have three other folks who are lined up, and we  
2 have one more coming up, if you can try to limit  
3 your comments to about a minute to two minutes,  
4 just so we can move into the next section.

5 MS. BROWN: Kourtnii Brown, California  
6 Alliance for Community Composting. We submitted  
7 formal, written amendments, but we wanted to focus  
8 right now on Article 1, on the definitions.

9 We're recommending that you create new and  
10 robust relevant definitions for community benefit  
11 composting, as opposed to what's existing now as  
12 community composting.

13 We feel that definition that we submitted  
14 would recognize the community benefit nature of our  
15 work, in addition to setting size and volume  
16 limitations. It would also help replace and remedy  
17 the redundancy that exists in the current  
18 definition for community composting.

19 We also made a suggestion, too, for adding  
20 an additional definition for micro composting. And  
21 reducing this to composting on site at any one time  
22 that does not exceed 20 cubic yards and 200 square  
23 feet.

24 We'll also be providing other comments for  
25 Articles 3, 5, 7 and 11. Thank you.

1 MS. GREEN: Good morning. I'm Sharon  
2 Green with the Sanitation District of Los Angeles  
3 County.

4 I also had one comment about one of the  
5 definitions. I wanted to comment on the proposed  
6 definition of jurisdiction. So, from our  
7 perspective, the proposal now includes special  
8 districts that provide solid waste handling  
9 services. This would appear to include special  
10 districts, such as the sanitation districts,  
11 although solid waste handling isn't defined in the  
12 regs. It's defined in the code. Not sure if that  
13 applies.

14 But as we're looking at the regulations,  
15 using that Public Resources Code definition, we are  
16 concerned because under the County Sanitation  
17 District Act, the act under which we were formed,  
18 we have a limited role. It does not include  
19 collection services.

20 And so, in fact, it would be impossible  
21 for us to be able to fulfill the role of a  
22 jurisdiction under the proposed regulations. And  
23 so, that our request is to narrow that definition,  
24 either to exclude special districts, or to narrow  
25 it to just apply to special districts providing

1 collection services, particularly if it's in lieu  
2 of a city or county. Thank you.

3 MR. BRADY: And we got that comment and  
4 thought it was well-articulated. I think we're  
5 looking at that distinction between collecting and  
6 handle.

7 We want to -- we're just going to do three  
8 more comments before moving into the next section.  
9 I do want to remind folks, though, there is still  
10 an opportunity at the end to continue to provide  
11 testimony. So, there will still be opportunities  
12 to comment. And if you can please try and keep the  
13 comments limited.

14 MR. BOONE: My name is Arthur Boone. I am  
15 the proprietor of a small business called Center  
16 for Recycling Research, at Berkeley.

17 It was 30 years ago that we enacted AB  
18 939. If you would ask the people who were involved  
19 at that time how much garbage we would have 30  
20 years from now, nobody would have guessed the  
21 number that we have today. Okay, 42 million tons a  
22 year going to the dump was a crisis in 1989.  
23 Today, we don't seem to be too upset about that. I  
24 think we should be upset.

25 I think we have to look back and what

1 we've done in terms of enforcement, the kind of  
2 activities that have happened in the past 30 years  
3 that have failed to meet more significant waste  
4 reduction goals. It's very important and you need  
5 to understand that.

6           The second thing, mixed waste processing  
7 is a bad idea. Everybody in Europe knows that. A  
8 year and a half ago the European Union mandated  
9 that by 2024 all organics, all organics would be  
10 collected separately throughout the 500 million  
11 people who live in the European Union.

12           We are now embarking on the step that they  
13 took 20 years ago and we're going to spend a lot of  
14 time pissing around, and fooling around with trying  
15 to rate and understand mixed waste processing, and  
16 we're going to come to the same conclusion they  
17 did, that it doesn't work very well. Okay. A lot  
18 of organics stay with the trash, et cetera.

19           So, I think as both the National Recycling  
20 Coalition, and these are things I did not know the  
21 last time I talked to you, both the National  
22 Recycling Coalition and the Recycling Industries  
23 Coalition, which is the organization that includes  
24 all the paper manufacturers, and the glass  
25 manufacturers, and the metal manufacturers, they



1 have all opposed mixed waste processing. Okay.  
2 You swimming upstream for the state that's supposed  
3 to be the innovation capital of the world. So, I'd  
4 like to see some changes there.

5 The third thing is that the 2011, we  
6 raised the question of what is comparable to source  
7 separation, okay. In nine years, this agency, in  
8 eight years this agency has failed to define what  
9 that means. I know people who are zero waste  
10 consultants who are getting 90 percent waste  
11 reduction in various businesses that they set up  
12 zero waste programs in. Okay. That number, those  
13 kinds of numbers need to be understood by the  
14 agency and they need to be factored into what kind  
15 of expectations do we have on the part of people  
16 who want to do non-mixed waste processing. Do you  
17 understand that? Okay, thank you.

18 MR. BRADY: Thanks, Art. And to the  
19 extent to the two organizations that you mentioned,  
20 if there's any publication or written documentation  
21 of that position, that would be helpful.

22 We'll do Dan, and then Rachel, and then  
23 move into the next section.

24 MR. NOBLE: Dan Noble, Association of  
25 Compost Producers. Just a few general comments.

1 One, Article 1, which has the definitions we did  
2 introduce and I will reintroduce them today, in  
3 addition to some further comments.

4 Just general themes, there are some  
5 definitions that are leaving out, and we proposed a  
6 few new ones, particularly relative to compost.  
7 Certified compost in particular, because not all  
8 composts are alike. So, using and making  
9 distinctions.

10 Also, composed end-use products. In  
11 addition, chip and grind material is not included.  
12 We would argue to include that. As well as compost  
13 overs, in addition to compost -- compostable  
14 materials.

15 And then, as we did last year, wanting to  
16 introduce the terms bioproduct and bioresource to  
17 get away from or migrate away from the organic  
18 waste term.

19 But even the organic waste term has -- you  
20 have two different definitions. You know, one in  
21 the definitions and then one in the Article 11.  
22 And we argue that you keep them the same, rather  
23 than creating a new definition for facility  
24 management.

25 And the main reason for that is because

1 you've eliminated a few of the terms, I have them  
2 written here, one of the main ones being manure.  
3 Since I know CalRecycle doesn't really manage  
4 manure, but the fact is that counties and local  
5 jurisdictions do have to manage that in concert  
6 with the woody material that is not part of the  
7 traditional waste system.

8           And that's, in particular relative to how  
9 we define capacity. If we're only defining  
10 capacity as production capacity, under a given  
11 jurisdiction's regulations, or State regulations  
12 versus local, I think production capacity needs to  
13 also include market capacity. In other words,  
14 where are all these materials going. Use capacity,  
15 if you will. Because they're not going into the  
16 landfill, so where are they going?

17           And if you produce too many products  
18 without having homes for those products, then you  
19 just have, you know, big piles of finished material  
20 with no market. So, all of that is in sort of  
21 nuanced definitions.

22           In addition, I think all of the articles  
23 need to be thought of in a whole systems way, not  
24 siloed, but fully integrated in terms of scale,  
25 from community compost up to huge facilities and

1 everything in between. Because local communities  
2 have to integrate that with the markets, with the  
3 supply, as well as on the other side of integrating  
4 between all the departments and the different forms  
5 of capital, whether it be social, human,  
6 production, natural resources, and then financial  
7 capital.

8 So, those are just some general comments.  
9 We'll have more. Thanks.

10 MR. BRADY: And so, we're going to do one  
11 more comment on this. Just to remind folks, to the  
12 extent that we complete a section early, we may  
13 just open it up to see if there's any general  
14 comments at that point. And then, at the very end  
15 of the hearing, we'll open it up to general  
16 comments again. So, there will still be an  
17 opportunity for non-reg-specific comments.

18 But Rachel, before you begin, I'd just  
19 invite Mary Jane Coombs, with ARB, up to the dais,  
20 as well, for our next presentation.

21 Go ahead.

22 MS. OSTER: Good morning. My name is  
23 Rachel Oster and I'm with the Diversion Strategies  
24 Consulting firm. And I felt compelled to get up  
25 here today because I think that today we're going

1 to be hearing a lot about the challenges associated  
2 with designing, and implementing, and enforcing SB  
3 1383. And those are all very just and it's  
4 important to work through the details with a fine-  
5 toothed comb about how these regulations are going  
6 to be implemented. And we have a lot of fine,  
7 smart people who are doing that here.

8           But I also felt the need to sort of get up  
9 and infuse a bit of hope and optimism into the  
10 conversation. And say that I think there are  
11 solutions providers outside of these walls that may  
12 not have the resources to dedicate to going through  
13 1383, or coming here today to speak on behalf of  
14 their organization. But that there are solutions  
15 providers, and as far as I know, the edible food  
16 recovery space, the contamination identification  
17 and reporting space, as well as just the reporting  
18 and data collection in general that have readymade  
19 solutions for 1383, and are working diligently to  
20 design and provide new products.

21           And so, I think more than ever before in  
22 this industry we are seeing a need to break down  
23 the barriers between hauling organizations and  
24 collection companies with technology providers,  
25 consultants, local government consultants, the

1 nonprofit academia sector.

2           And I'd just encourage everyone in the  
3 room to be aware of the people that are working to  
4 provide solutions, to reach across the table that  
5 you may not have before and come together to figure  
6 out ways to implement this really important rule.

7           And so, I just wanted to encourage that,  
8 and infuse some hope and optimism, and say that  
9 California is the place where we applaud and  
10 incentivize innovation. And I believe that's  
11 happening around 1383. Thank you.

12           MR. BRADY: So, we're going to move into  
13 the next section. There will be another  
14 opportunity for general comments later in the day.

15           So, we're now going to present on Article  
16 2, which defines activities that constitute a  
17 reduction in landfill disposal and activities that  
18 constitute landfill disposal. This is going to be  
19 a presentation by myself and Mary Jane Coombs, with  
20 the California Air Resources Board, who we  
21 consulted with ARB throughout the development of  
22 the regulations. And, in particular, on this  
23 section.

24           So, for an overview on this article, the  
25 article identifies whether specific activities

1 constitute disposal or recovery. For this article  
2 and the regulations, CalRecycle and ARB determined  
3 that any activity that results in the physical  
4 placement of organic waste in a landfill  
5 constitutes landfill disposal.

6 Further, to maintain consistency with the  
7 State's efforts to keep organic wastes out of  
8 landfills and reduce greenhouse gas emissions,  
9 activities that constitute a reduction in landfill  
10 disposal or recovery must also reduce greenhouse  
11 gas emissions.

12 So, in order for an activity to constitute  
13 a reduction in landfill disposal, it must divert  
14 organic waste from landfills and reduce greenhouse  
15 gas emissions.

16 This effectively establishes two tests for  
17 activities. First, do they place material in a  
18 landfill? And second, does the activity ultimately  
19 reduce greenhouse gas emissions.

20 To determine activities that meet these  
21 two tests, the statutory guidance in the Public  
22 Resources Code and the Health and Safety Code that  
23 was codified by SB 1383 was considered. Section 1  
24 of the article identifies activities that  
25 constitute disposal and activities that constitute

1 recovery.

2           And then, the second section of the  
3 article articulates the process for determining how  
4 new technologies that are not identified in those  
5 defined lists will count moving forward.

6           So, for the first part of the first  
7 section, as was stated in the initial statement of  
8 reasons, the following activities are considered  
9 landfill disposal of organic waste for the purposes  
10 of 1383. These are activities that essentially  
11 fail the test of placing organic waste in a  
12 landfill and/or they fail to reduce greenhouse gas  
13 emissions. It's landfill disposal, the use of  
14 organic waste as cover material, where there's ADC  
15 or AIC, alternative daily cover or alternative  
16 intermediate cover.

17           I'll talk about an exception relative to  
18 MRF funds in a moment.

19           And then, any use not specifically  
20 identified as recovery in the regulations.

21           Regarding alternative daily and  
22 alternative intermediate cover, text was added in  
23 the previous draft to clarify -- sorry, text was  
24 added in the current draft to clarify that the use  
25 of MRF material recovery fines as cover material



1 may not constitute disposal of organic waste, as  
2 the nature of these fines is not currently  
3 determined in a definitive manner.

4           Essentially, as material recovery fines  
5 may not be organic material in nature, while their  
6 use as cover may be equivalent to disposal, it does  
7 not necessarily constitute disposal as organic  
8 waste, as the material itself may not be organic in  
9 nature.

10           And then, regarding dispositions not  
11 identified as recovery counting as disposal, this  
12 broadly covers activities such as illegal disposal  
13 or other activities where the greenhouse gas  
14 reductions cannot be verified.

15           Relative to activities that constitute  
16 recovery. CalRecycle further worked with the Air  
17 Resources Board to identify activities that count  
18 as recovery. That is activities that do not place  
19 organic waste in landfills and reduce greenhouse  
20 gas emissions.

21           Several activities were identified in the  
22 short-lived climate pollutant strategy as recovery.  
23 This includes recycling, composting, digestion in  
24 food recovery. Other activities, such as biomass  
25 conversion, land application and other soil

1 amendments do not place material in landfills and  
2 they reduce greenhouse gas emissions.

3           However, as noted on the screen, under  
4 these regulations soil amendments and land  
5 application are subject to additional standards  
6 that limit the potential for methane generation,  
7 such as an application limit of 12 inches to  
8 prevent anerobic conditions.

9           Finally, any technologies subsequently  
10 identified by CalRecycle and the Air Resources  
11 Board as an activity that does not place organic  
12 waste in landfills and reduces greenhouse emissions  
13 to minimum levels can be deemed to constitute  
14 recovery.

15           And so, with that, I'll transition to Mary  
16 Jane for her discussion of the second section of  
17 this article.

18           MS. COOMBS: Thank you, Hank. And thank  
19 you all for having CARB here today.

20           So, Hank talked about, in his previous  
21 slide, the ninth category of things that can  
22 constitute recovery, which is things we don't yet  
23 have scope out in the regulations. So, Section  
24 18983.2 is meant to provide a means by which  
25 someone can come in with a proposal for a

1 technology that they believe that results in  
2 recovery of organics and reduction in greenhouse  
3 gas emissions, and get a determination by  
4 CalRecycle that it indeed does divert that organic  
5 material and result in greenhouse gas emission  
6 reductions.

7           So, I'm just going to go through a few  
8 slides here, very broadly going over what's in this  
9 section of the regulation.

10           So, first off, what does CalRecycle and in  
11 consultation with CARB need to determine whether or  
12 not a technology or a process results in a  
13 reduction in landfill disposal?

14           We need information about what that  
15 technology or process is, what type of organic  
16 waste is being processed. And then, calculations  
17 and assumptions that the proponent of this process  
18 or technology is making to determine whether or not  
19 it results in a reduction in greenhouse gas  
20 emissions.

21           So, CalRecycle, per the requirement of SB  
22 1383, will consult with CARB and together determine  
23 whether or not that technology or process does  
24 result in a reduction in landfill disposal.

25           So, obviously, you have to have a metric

1 against which you measure what constitutes that  
2 recovery. So, in this case we have determined that  
3 that metric would essentially be the same emissions  
4 reductions we calculate as coming from composting,  
5 and that's .3 metric tons CO2 equivalent of organic  
6 waste.

7 So, this number was -- I should say this  
8 number is -- the derivation of it is described in  
9 detail, in the initial statement of reasons, so  
10 you're welcome to look at that. But very broadly,  
11 we started with CARB's compost emission reduction  
12 factor from 2017, otherwise known as the CERF, and  
13 modified it in a few ways.

14 The first of which was we used  
15 CalRecycle's 2014 Waste Characterization Study to  
16 quantify imported landfill methane emissions. This  
17 aligns the date for the CERF with the date against  
18 with the diversion required by 1383 is measured.

19 We also updated the compost application  
20 rates from California's Healthy Soils Initiative,  
21 and this is to calculate the avoided mineral  
22 fertilizer production emissions.

23 And then, we removed aversion control  
24 emissions benefits because one of the things we  
25 discussed in the ISOR was making sure these

1 reductions are permanent. And by permanent, we  
2 mean that the emissions reductions stay in place  
3 for at least a hundred years. And this aligns with  
4 other CARB greenhouse gas emission reduction  
5 programs.

6           Finally, technologies and processes that  
7 are deemed to constitute a reduction in landfill  
8 disposal, it will be posted on CalRecycle's  
9 website. And folks who believe that their  
10 technology or process is equivalent to something  
11 that's already posted, already approved by  
12 CalRecycle can essentially petition to be  
13 considered as equivalent to what's already been  
14 approved, without having to go through that full  
15 process that's discussed previously in the section.  
16 Thank you.

17           MR. BRADY: I'm actually going to just  
18 stay seated here so we can take some notes. We  
19 have until 10:15 for public testimony on this  
20 section. I would ask folks that want to make a  
21 comment, if you'd please line up so we can get a  
22 sense of how many commenters there are, so we can  
23 make sure that everyone has roughly an equal amount  
24 to comment. In the last section, some of the last  
25 commenters that didn't have quite as much time.

1           So, if you intend to make a comment at  
2 this point, if you'd please line up so we can see  
3 if we need to meter it out a little bit?

4           MR. LAPIS: Hi, good morning. Nick Lapis  
5 with Californians Against Waste.

6           I have a comment on this section,  
7 specifically. It's actually something I didn't  
8 pick up on as we were writing our comments, so it  
9 wasn't included.

10           It seems like a change from the previous  
11 draft is that there's no longer a requirement that  
12 the Air Board actually -- the Board, itself,  
13 actually vote to approve these individual  
14 technologies. It seems like it's now at the  
15 discretion of CalRecycle.

16           That's potentially a workable option as  
17 long as we maintain the public process of it being  
18 approved at a public meeting, with notice, et  
19 cetera. Right now, it seems like it could be a  
20 staff decision. And I think given the nature of  
21 some of the things that will be proposed, it's  
22 important to have public input.

23           And, additionally, I'd recommend that you  
24 add consideration of other potential impacts and  
25 impacts on disadvantaged communities, as well.

1 Thank you.

2 MR. BRADY: Thanks Nick. And that may  
3 appear as a change. It was not a substantive  
4 policy change in terms of a vote by the Air  
5 Resources Board.

6 MR. BOONE: Arthur Boone, again, the  
7 Center for Recycling Research.

8 About five years ago, I was drawn to the  
9 fact that in the EPS laws being enacted around the  
10 country there was no rhyme or reason to it, but  
11 each state was sort of picking different materials  
12 to go after. And the question raised, that's  
13 current in my mind, is there a coordinated system  
14 to determine materials which are currently not  
15 marketable?

16 And from that, I started making a list of  
17 all the materials I know that are not marketable.  
18 They have no market anywhere. And that's what  
19 belongs in the garbage can.

20 What we always do, now, is we tell people  
21 what to put in the recycling containers. What we  
22 really need to do is to tell people these are the  
23 materials that are allowed in the garbage can  
24 because there is no market for them.

25 If we do that, then that does several

1 things. One is it tells people what you need. It  
2 gives guidance to the people who are doing waste  
3 checking. And the other thing it does is it alerts  
4 the people who are manufacturing or handling these  
5 materials that they're on the S list from the  
6 State, because they belong in the garbage, because  
7 there's nothing else to do with them.

8           Okay, and that to me -- nobody's tried  
9 that, yet. But it seems to me that if we're going  
10 to be innovative, we need to think about telling  
11 people these are the materials you cannot put in  
12 the garbage, rather than these are the materials  
13 you should put in the recycling.

14           In Berkeley, now, we're currently  
15 designing a new transfer station. And it occurred  
16 to me, looking at that pile of stuff that people  
17 was allowed to dump in the transfer station, is  
18 we're actually enabling wasters by offering them a  
19 service. Because they come in with all this stuff  
20 mixed up.

21           But if you sit there and take it all  
22 apart, it will be -- it's 90 percent of it's  
23 recyclable, over 90 percent. So, I think it's just  
24 a different way of looking at things. Thank you.

25           MS. LEVIN: Julia Levin, Bioenergy



1 Association of California, again. In Article 2,  
2 Section 18983.1, the definitions of land  
3 application of both biosolids and digestate again  
4 are limited to anerobic digestion. I'm sorry to  
5 sound like a broken record, but this my theme for  
6 the day.

7           There's no reason to limit the conversion  
8 method to anerobic digestion. And in fact, many  
9 wastewater treatment facilities around the State  
10 want to take a second energy bite at that waste,  
11 reduce truck miles.

12           In the Bay Area, alone, transporting  
13 digestate or biosolids from wastewater treatment  
14 facilities to the Central Valley, where they can be  
15 land applied, is 100,000 truck miles a year just to  
16 transport those biosolids to where they can be land  
17 applied.

18           Many wastewater facilities and the  
19 California Association of Sanitation Agencies would  
20 like to be able to further convert biosolids to  
21 biochar, using gasification. They'll get  
22 additional energy out of the waste and  
23 significantly reduce the tons that then have to be  
24 trucked to where they can be land applied.

25           So, we urge you to expand the definitions

1 in Section 18983.1(6)(b) to include opportunities  
2 to further convert digestate and biosolids through  
3 gasification to biochar. Which according to the  
4 Air Resources Board is the only way to provide  
5 permanent carbon sequestration, which compost does  
6 not do. It provides nutrients and many other  
7 benefits, but not permanent, long-term carbon  
8 sequestration.

9 So, there are many short-lived climate  
10 pollutant and greenhouse gas reasons to expand the  
11 definition of what can be land applied. Thank you.

12 MS. FOSTER: Good morning. Colleen  
13 Foster, City of Oceanside. I'd like to definitely  
14 reiterate the point brought up the individual prior  
15 to me.

16 This law is very important and our city  
17 supports it. However, the solutions to comply with  
18 this law shouldn't be one-size-fits-all and it  
19 needs to understand the complexities of the  
20 different industries impacted and involved. And  
21 limiting diversion opportunities to only anaerobic  
22 digestion and composting makes it extremely  
23 difficult for advancement in regards to our  
24 wastewater treatment facilities or other diversion  
25 opportunities.

1           And I see this section as CalRecycle  
2 trying to respond to the issues associating with  
3 limiting the diversion opportunities. But,  
4 truthfully, it's not enough. And it doesn't give  
5 us the confidence to be able to invest in  
6 infrastructure now, if we don't know if it will be  
7 approved from CalRecycle down the road.

8           For example, has CalRecycle tested this  
9 Section 189 to see whether some of the other  
10 technologies and systems proposed would even  
11 comply, would even be approved by CalRecycle. For  
12 us to meet the diversion goals or the compliance  
13 goals by 2024, we need to invest in infrastructure  
14 now. And I can't get financial lending based off  
15 of something that may or may not be approved by  
16 CalRecycle, or a public comment process, as  
17 mentioned by Nick Lapis. So, that's very  
18 important.

19           And that's different. That's not in my  
20 letter. The City of Oceanside submitted a letter.  
21 So, it's really important that you understand the  
22 need that we need confidence today, not in 2022  
23 when the law is passed and this process is done.

24           Additionally, I'd like to also just  
25 mention, to add to her comments, is I wouldn't even

1 limit it to biochar. We're recommending that the  
2 language is changed to be more general, to state  
3 essentially diversion processes that would limit  
4 pathogen. So, CalRecycle to accept any processes  
5 in regards to land application that would limit the  
6 pathogen aspects of the material. Thank you.

7 MR. BRADY: Thank you. Do you want to  
8 just check, do we have online comments to read?

9 MR. BRIA: I have a six-page letter from  
10 Neil Edgar. There might be something to relate to  
11 this section, but I don't know if you want me to  
12 read through it.

13 And I have a couple others related to  
14 definitions.

15 MR. BRADY: We'll hold off on those. Or,  
16 let's just have Chuck stand while we read the six  
17 --

18 (Laughter)

19 MR. HELGET: I've got 16 pages worth of  
20 comments ready.

21 MR. BRADY: To the extent that the letter  
22 is submitted, I will take that into the record, but  
23 not read all 16 pages -- or, six pages.

24 So, go ahead.

25 MR. HELGET: Promise to be brief. Just a

1 quick comment on MRF fines. Some comments are  
2 contained in our letter. I don't think this is  
3 redundant. But when you say substantially free of  
4 organics, I think is the term you used, does that  
5 mean 10 percent? What does that mean? I think we  
6 need to have a clearer definition.

7 For plugging MRF fines, there are  
8 residuals that come off the line. There really  
9 isn't another use for them. And so, having an  
10 organic standard tied to them doesn't make any  
11 sense to us.

12 MS. SCHOONMAKER: Good morning. Kelly  
13 Schoonmaker, StopWaste. So, I just noticed this,  
14 so this comment might not be as cogent if I had  
15 written it before. But, it's about the compost  
16 emissions reduction factor that you're using for --  
17 to constitute an efficient technology, an  
18 acceptable technology.

19 So, that seems a lot lower, .3 is what  
20 you've got now, after the revisions. And the CERF  
21 is .56, right, for food and yard trimming.

22 When I looked at the revisions that you  
23 made, one thing that stood out to me was using the  
24 Healthy Soils Initiative application rate, which  
25 works out to about like .1 inch, which is much

1 lower than you would typically apply.

2 And the way that they got that  
3 application, it was more kind of, to my  
4 understanding, what they would subsidize with the  
5 funding they had so they could spread it. So, it's  
6 not so much a recommended application rate that you  
7 would find for compost in an agricultural  
8 application. So, and it also doesn't take into  
9 account emission reductions from landscape, which  
10 is a higher application rate.

11 So, I just wanted to make that point that  
12 that might be a little low, and I don't know if  
13 it's possible to refine it. But thank you.

14 MR. BRADY: Other public testimony on this  
15 article?

16 Okay, I did commit in the previous section  
17 that if there was any general comments that were  
18 not received in the first section that you can make  
19 those comments now. And then, we will move into  
20 the next presentation, if there's no other  
21 comments.

22 MS. STEIN: Hi. My name is Antoinette  
23 Stein, from Environmental Health Trust. The  
24 comment I wanted to make is that it seems as though  
25 the solution to pollution is -- you know, we all

1 know the answer, right? But in this case, the  
2 solution to dilution really needs to be, you know,  
3 not diversion, not dilution. It really needs to be  
4 prevention. And we can't just think that we're  
5 going to avoid the pollution by just mixing it all  
6 up and making the contaminants, the pathogens, the  
7 toxics just by making them less because we're  
8 putting it in a bigger sea of stuff. It just isn't  
9 right. I don't know. But that's one comment.

10           The other comment is that source-separated  
11 waste, mixing it with the mixed waste organics, or  
12 the remnants, it's -- you know, we're expending all  
13 kinds of capital to get the source-separated  
14 materials ready to be composted or processed. And  
15 then, we're thinking of mixing them together. I  
16 mean, we just spent all this money to keep them  
17 separate and now we're mixing them back. I just  
18 think that just doesn't fit in the definitions that  
19 you have.

20           So, I'll be back.

21           MR. BRADY: Thanks. Seeing no more  
22 comments or testimony on this section, then we will  
23 move into the next presentation on collection,  
24 planning, and education and outreach.

25           MS. MORGAN: Good morning. My name is

1 Cara Morgan and I am Chief of the Local Assistance  
2 Market Development Branch. We're going to cover  
3 collection and planning today.

4 The most basic element of this regulation  
5 is that jurisdictions will be required to provide  
6 organic waste collection services to each of their  
7 generators.

8 The regulations also require that all  
9 generators are to use an organic waste recycling  
10 service that meets the regulatory requirements.

11 There's a lot of detail regarding the  
12 types of allowable collection programs. There's  
13 quite a few pages of regulatory text on this topic.  
14 But today, we're just going to provide highlights.

15 All right, to everyone's favorite item,  
16 yes, we are requiring standardization of container  
17 colors. The primary colors are green, blue or  
18 grey. When we say grey, we mean any shade of grey  
19 or black. Yeah.

20 So, let me talk about three containers.  
21 So, you can also have a three container-plus  
22 system. Some jurisdictions provide a separate bin  
23 for food waste. The color is required to be  
24 yellow. A jurisdiction might do this because food  
25 waste goes to an in-vessel digestion facility or



1 wastewater treatment plant and the green waste may  
2 go to a compost facility. This is completely  
3 acceptable and it meets the basic regulatory  
4 standard of keeping organics separated from  
5 nonorganics.

6 Now, I'd like to talk about the color  
7 requirements. A jurisdiction is not required to  
8 replace functional containers that do not comply  
9 with the color requirements prior to the end of the  
10 useful life of those containers or prior to January  
11 1, 2032, whichever comes first.

12 Regarding container labeling requirements,  
13 by January 1, 2022 a jurisdiction is required to  
14 place and maintain a label on each new container,  
15 or lid, specifying what materials are allowed to be  
16 placed in that container. Labeling can be done by  
17 placing labels on the containers that include  
18 written or graphic information, or imprinting the  
19 text or graphics into the container or lid.

20 A jurisdiction may also comply with these  
21 requirements by using model labeling provided by  
22 the Department or that we will be providing.

23 The container can just have the lid either  
24 required color. For split containers, also only  
25 the lid is required to have the color.

1           There are requirements of what can go into  
2 each container. Additionally, we have clarified  
3 that material that cannot be collected in the green  
4 container, and those materials are carpets,  
5 noncompostable paper, and hazardous wood waste.

6           As we go through the collection service  
7 options, I'd like to note that communities may have  
8 multiple types of collection services. For  
9 example, a jurisdiction might for their residential  
10 customers have three-container service. For multi-  
11 family, they might have two-container service. And  
12 for businesses, they might have a mixture. Some  
13 businesses might get three containers. Some  
14 businesses might get two containers. They might  
15 even have some businesses on single, unsegregated.

16           So, as we go through the collection  
17 services, although we'll be talking about them  
18 individually, please know that a jurisdiction can  
19 have any variety of services. It could even vary  
20 by the haulers that they have servicing the  
21 community.

22           Also, I'd like to note that while our  
23 slides picture a cart, when we're talking about  
24 colors and labeling, we're talking about any type  
25 of container, bins, carts, et cetera.

1           So, let me talk about a three-container  
2 organic waste collection service. A three-bin  
3 system, or three bin-plus, as I mentioned earlier,  
4 is where all of the organics, including food, is  
5 required to go in the green bin. There would be  
6 some organic waste, such as paper and cardboard  
7 that would go in the blue container, provided that  
8 the container is limited to recyclable materials.

9           All nonorganic waste goes into the grey  
10 container. And no organic waste should be allowed  
11 in that container, with a few exceptions as noted  
12 in the regulations.

13           There are minimum standards for monitoring  
14 within this system and we will touch on that in a  
15 moment.

16           I'd also like to note, for this type of  
17 system transporting to a consolidation site is  
18 allowed.

19           Next is the two-container collection  
20 service. What we've commonly seen is a wet/dry  
21 system, where a single green container is  
22 specifically limited to organic waste, the exact  
23 same it would be in the three-bin system on the  
24 previous slide. In that case, that container is  
25 treated as a container in the three-container

1 organic waste collection service and is subject to  
2 contamination monitoring. But the material does  
3 not have to go to a high diversion processing  
4 facility.

5           However, in this system, at least one of  
6 the containers will be mixing organic waste with  
7 nonorganic waste into that single, unsegregated  
8 container. For this slide, it is the blue  
9 container that has the nonorganic waste. And so,  
10 this blue container would have to go to a high  
11 diversion processing facility.

12           And again, just as it was in the three-  
13 container system, transporting to a consolidation  
14 site is allowed for a two-container collection  
15 system.

16           On this slide, the nonorganic waste is  
17 designated for the green container. So, the  
18 contents of the green container would have to go to  
19 a high diversion organic waste processing facility.

20           Now, let's talk about a single,  
21 unsegregated collection service. this is allowed  
22 if the contents of the container are transported to  
23 a high diversion facility that meets specified  
24 performance requirements. This will be discussed  
25 in more detail later.

1           Bags for source-separate organics can be  
2 placed in the single container. Like the other two  
3 collection services, the container contents may be  
4 first transported to a consolidation site.

5           If a high diversion organic waste  
6 processing facility is unable to meet the recovery  
7 rate, then the jurisdiction may be issued a  
8 corrective action plan if certain conditions are  
9 met. These actions can include if the existing  
10 high diversion organic waste processing facility  
11 comes back into compliance, the jurisdiction can  
12 continue to use that facility.

13           Second, the jurisdiction may utilize  
14 another high diversion organic waste processing  
15 facility.

16           Or, third, the jurisdiction can modify the  
17 collection service to start a three-container  
18 organic waste collection service.

19           The corrective action plan will be  
20 discussed in more detail later.

21           So, at this time, I'm going to turn it to  
22 Howard.

23           MR. LEVENSON: Thanks Cara. This is  
24 Howard Levenson, Deputy Director at CalRecycle.

25           Can you guys hear me? This mic's not

1 working.

2 MR. LEVENSON: How's that? Yeah, okay.  
3 Howard Levenson, Deputy Director at CalRecycle.

4 Cara's talked about the collection  
5 systems, the kinds of systems that are allowed  
6 under the regulations and about high diversion  
7 facilities. I'm going to talk about other  
8 requirements in Article 3 about contamination, and  
9 some of the requirements on generators and  
10 businesses.

11 Specifically, talking first about  
12 contamination minimization, for either three-  
13 container or two-container collection services,  
14 jurisdictions are going to be required to conduct a  
15 root review for prohibited contaminants. And  
16 they'll have to do this on randomly-selection  
17 containers in such a manner that every route is  
18 reviewed at least quarterly. This means for any of  
19 the three- or two-container systems.

20 If the jurisdiction or its designee finds  
21 contaminants in the containers that they're  
22 collecting, then they'll be required to contact the  
23 generator or provide written notice about that  
24 contamination.

25 If the jurisdiction's informed by a solid

1 waste facility that -- by a solid waste facility  
2 operator that the waste collected by one of its  
3 haulers contains prohibited container contaminants,  
4 the jurisdiction will also have to take additional  
5 actions to reduce contaminants, as specified in the  
6 regulations.

7           If a jurisdiction complies with this  
8 section through a designee, such as a hauler, then  
9 the designee has to inform the jurisdiction in  
10 writing, each month, about the monitoring and  
11 noticing actions that it's taken.

12           Also want to note that jurisdictions can  
13 have contamination standards that are more  
14 stringent than what's required in the regulations.

15           Now, let's talk a little bit about the  
16 requirements on businesses and other generators.  
17 We noted at the beginning that organic waste  
18 generators include residential and commercial  
19 entities, but they all have to subscribe to and  
20 comply with the jurisdiction's organic waste  
21 collection service.

22           Businesses have to provide organic waste  
23 collection containers in all areas where disposal  
24 containers are provided for its customers and  
25 employees, except for in restrooms. The containers

1 have to conform to the local jurisdiction's  
2 service.

3           For example, if a local jurisdiction's  
4 service is a three-container system, then the  
5 businesses also have to have three containers,  
6 blue, green, and grey/black.

7           Businesses have to prohibit their  
8 employees from placing organic waste in a container  
9 that's not designed or designated to receive  
10 organic waste. They periodically have to inspect  
11 the containers for contamination, and then let the  
12 employees know if the contamination is being found  
13 and what the requirements are.

14           All businesses are also encouraged to  
15 prevent and reduce organic waste, and they can also  
16 manage organic waste onsite or use a community  
17 composting site.

18           For business and property owners, those  
19 entities need to ensure that there's an adequate  
20 number, size, and location of containers for their  
21 employees, for contractors, for tenants, and  
22 customers. The containers have to have sufficient  
23 labels and they have to be the appropriate color,  
24 which we've talked about. Again, it could be the  
25 lid only.



1           And the property and business owners have  
2 to provide information on an annual basis about the  
3 organic waste recovery requirements and the proper  
4 sorting of organic waste.

5           Property owners also have to provide this  
6 information to new tenants upon occupation of the  
7 premises.

8           And, additionally, the property owners and  
9 the businesses must allow access to their  
10 properties and arrange for access during all  
11 inspections. And we'll discuss inspections in more  
12 detail later.

13           I also want to note that while we're  
14 talking about Article 3 right now, Article 5  
15 contains very similar requirements for nonlocal  
16 agencies, such as state and federal agencies, and  
17 for what we're calling local education agencies.

18           Now, there are -- the regulations do  
19 contain a number of different waivers and  
20 exemptions. This slide, we've got the waivers and  
21 exemptions that can be granted by jurisdictions.  
22 The next slide will cover ones that can be granted  
23 by the Department.

24           There's three kinds of waivers that a  
25 jurisdiction can grant. You can see them here, de

1 minimis waiver, physical space waiver, and a  
2 collection frequency waiver.

3           Regarding the de minimis waiver, a  
4 jurisdiction may waive a commercial business's  
5 obligation to comply with some of the requirements  
6 if the business provides documentation or if the  
7 jurisdiction has evidence that the business's total  
8 solid waste is more than two -- there's a couple of  
9 different ways to approach this. A couple  
10 different, large and small generators.

11           If a business's total solid waste is more  
12 than two cubic yards per week and organic waste is  
13 less than 20 gallons per week. Or, if it's a  
14 smaller generator, if it's total solid waste is  
15 less than two cubic yards per week and the organic  
16 waste is less than ten gallons per week.

17           The jurisdiction has to annually verify  
18 that the business's generation meets these  
19 thresholds, one of these thresholds. And if at any  
20 time the business generation exceeds the threshold,  
21 then the jurisdiction has to rescind that waiver.

22           The second waiver type is a physical space  
23 waiver. A jurisdiction may waive a commercial  
24 business's obligation to comply with some of these  
25 requirements. Again, if the business provides

1 documentation or the jurisdiction has some  
2 evidence, whether it's from its staff, or a hauler,  
3 or a licensed architect, and other qualified  
4 sources that's demonstrating that there's not  
5 adequate space.

6           The last waiver that a jurisdiction may  
7 grant is on collection frequency. A jurisdiction  
8 may allow the owner or tenant of any regulated  
9 entity, that has a two- or three-container organic  
10 waste collection service to have the blue and/or  
11 the grey container collected less frequently.

12           Green waste still has to be collected at  
13 least at a minimum of every seven days. And the  
14 jurisdiction or its authorized hauler would have to  
15 demonstrate to the solid waste local enforcement  
16 agency that less frequent collection won't result  
17 in public health and safety, or nuisance issues.

18           Then, there are a number of waivers that  
19 may be granted by the Department, by CalRecycle.  
20 The low population waiver, rural exemption and some  
21 emergency-related circumstances.

22           The low population waivers are trying to  
23 get at the issue raised in the informal period  
24 about areas located in the State that are not  
25 defined as rural, but have very low population,

1 very low generation in large, remove service areas.

2           So, low population waivers may be granted  
3 for some or all of the requirements in Article 5  
4 for the following: An incorporated city that has  
5 less than 5,000 tons of solid waste disposal in  
6 2014 and a total population of less than 5,000.

7           A county with census tracts that are  
8 located in unincorporated portions of the county,  
9 and with those census tracts having a population  
10 density of less than 50 people per square mile.

11           These waivers are good for -- would be  
12 good for up to two years and the Department would  
13 have to review and evaluate a waiver request within  
14 90 days of receiving that request.

15           The second kind of exemption would be  
16 rural exemptions. This applies to rural exemptions  
17 that meet the definition that's in the Public  
18 Resources Code, Section 42649.8. And if the  
19 governing body of the jurisdiction adopts a  
20 resolution that includes a finding about the need  
21 for the exemption. And this is similar to how we  
22 treat those rural jurisdictions right now.

23           This would be valid for a period either up  
24 until January 1st of 2025, or until five years  
25 after the Department makes another determination

1 that we have to make about whether the statewide  
2 disposal of organic waste hasn't been reduced to 50  
3 percent of the 2014 disposal level.

4 Even with these waivers, the jurisdiction  
5 still has to comply with other requirements in the  
6 regulations to promote and provide information to  
7 generators about waste prevention, community  
8 composting, managing organic waste on site, and  
9 other means of recovering organic waste or any  
10 other requirements of this chapter.

11 Lastly, there are emergency circumstances.  
12 If there are operational or technical failures that  
13 occur at a facility, a waiver for up to 90 days may  
14 be granted.

15 And there are waivers related to  
16 disasters. A jurisdiction may submit a request for  
17 a waiver for the disposal of disaster debris under  
18 certain conditions specified in the regulations.  
19 And there's some other details on those waivers, as  
20 well.

21 Moving on to education and outreach  
22 requirements, jurisdictions must conduct education  
23 and outreach for the following. One, for all  
24 businesses and residences regarding collection  
25 service requirements, contamination standards, and

1 overall compliance with SB 1383.

2           And this includes providing information on  
3 methods for preventing organic waste generation,  
4 recycling organic waste on site, sending organic  
5 waste to community composting and any other local  
6 requirements regarding organic waste.

7           Jurisdictions also have to provide  
8 education and outreach to self-haulers, as well as  
9 to haulers. With the haulers, that has to include  
10 information that addresses the contamination  
11 standards.

12           And the educational material also must be  
13 provided to linguistically-isolated households, as  
14 defined in the regulations.

15           The education must consist of print,  
16 electronic media, and direct contact with  
17 generators through workshops, meetings, or onsite  
18 visits.

19           There's another section of Article 3,  
20 then, that deals with CALGreen requirements.  
21 Jurisdictions will have to adopt an ordinance or  
22 other enforceable requirement that requires  
23 compliance with the CALGreen requirements. This  
24 includes providing readily-accessible areas for  
25 recycling containers in commercial and multi-family

1 units, and recycling organic waste that's  
2 commingled with construction and demolition debris  
3 to meet CALGreen's 65 percent requirement for  
4 construction and demolition debris recycling in  
5 both residential and nonresidential units.

6           The next portion of Article 3 deals with  
7 regulation of haulers. A jurisdiction shall  
8 require haulers that are providing waste collection  
9 services within its boundaries to meet the  
10 requirements and standards of this chapter as a  
11 condition of approval of a contract, or agreement,  
12 or other authorization for that hauler to collect  
13 organic was.

14           It will also require haulers to identify  
15 the facilities to which they'll transport organic  
16 waste, and to comply with all the other applicable  
17 requirements of this chapter.

18           Organic waste collected by the hauler has  
19 to be transported to a facility operation, activity  
20 or property that recovers organic waste. The  
21 hauler has to receive applicable approval from the  
22 jurisdiction. The hauler will have to keep a  
23 record of the documentation of its approval from  
24 the jurisdiction.

25           And I'll just note that this section is

1 not applicable to a hauler that's transported  
2 source-separated organic waste to a community  
3 composting operation or transporting construction  
4 and demolition debris.

5           We're almost through with this Article 3.  
6 Regarding self-haulers, if a jurisdiction allows  
7 generators within its boundaries to self-haul  
8 organic waste, it will have to adopt an ordinance  
9 or a similarly enforceable mechanism that  
10 requirements compliance with the requirements in  
11 this section.

12           A self-hauler will have to comply with the  
13 following. It has to source separate all organic  
14 waste on site. It will have to haul source-  
15 separated waste to a solid waste facility  
16 operation, activity or property that processes or  
17 recovers source-separated organic waste.

18           The self-hauler will have to keep a record  
19 of the amount of organic waste delivered to each  
20 facility. And this record will be subject to  
21 inspection by the jurisdiction.

22           There are some exceptions to this that are  
23 delineated in the regulations.

24           And a self-hauler shall also annually  
25 report data to the jurisdiction.



1           This section also specifies that a  
2 residential organic waste generator that self-hauls  
3 organic waste isn't required to record or report  
4 the information that I just mentioned.

5           Lastly, in this section -- excuse me -- is  
6 the section on capacity planning. There are a lot  
7 of details in this section about what we're asking  
8 to be done in order to estimate necessary capacity.

9           So, I'm just going to cover some key  
10 points. One is that each jurisdiction has to plan  
11 for adequate capacity for recycling organics and  
12 for edible food recovery.

13           We got a lot of comments on this in the  
14 informal stages and we have tried to put in some  
15 details that respond to those comments regarding  
16 what's adequate, and other issues that were raised  
17 earlier.

18           Each county would lead this effort by  
19 coordinating with the cities and the counties to  
20 estimate existing, newer, or expanded capacity.  
21 Each city and county must demonstrate that the  
22 capacity for recycling is guaranteed to be  
23 accessible, whether that's through contracts,  
24 permits, franchised agreements or other acceptable  
25 documents.

1           And there are requirements in the  
2 regulations for each jurisdiction to consult with a  
3 number of different entities to determine capacity.  
4 This includes the local enforcement agency, the  
5 local task force, owners and operators of  
6 facilities, community composted operations,  
7 citizens, included disadvantaged communities to  
8 discuss the impacts and benefits associated with  
9 expanded facilities or new facilities.

10           For edible food recovery, the county and  
11 city must contact edible food recovery  
12 organizations that serve the jurisdiction to  
13 determine how much existing, new, or planned  
14 capacity is available.

15           Each jurisdiction has to do this in light  
16 of -- to plan, to recover 20 percent of the edible  
17 food for human consumption, including identifying  
18 what we call tier one and tier 2 commercial food  
19 generators. And to consider funding for edible  
20 food recovery infrastructure.

21           If capacity cannot be guaranteed, then  
22 each jurisdiction within the county that lacks  
23 capacity has to submit an implementation schedule  
24 to CalRecycle that includes specified timelines and  
25 milestones, including funding for the necessary

1 recycling or edible food recovery facilities.

2           The county that is leading this must  
3 collect data from the cities on a specified  
4 schedule and report to CalRecycle, and cities are  
5 required to provide the required data to the  
6 county.

7           Obviously, there are a lot of specific  
8 requirements in Article 3, and I'm sure there are  
9 no comments, so we'll move on to the next section.

10           MR. BRADY: So, if folks can please line  
11 up for public testimony. I have a couple written  
12 comments that came in, that I'm going to go  
13 through.

14           I did want to note, though, just before  
15 folks provide testimony, as well, to the extent  
16 this section covered the requirements for certain  
17 collection systems to go to high diversion organic  
18 waste processing facilities, to the extent there's  
19 questions or comments on the sampling requirements  
20 or a facility's determined to meet that, those  
21 should be made during the solid waste facility  
22 portion.

23           And then, relative to criteria on the CAP,  
24 if you can please make those comments during the  
25 enforcement section.

1           The three various comments that I'm going  
2 to read, I'm actually going to paraphrase these.  
3 But for those folks listening online, just know  
4 that the comments as written will be entered into  
5 the record. I'm just paraphrasing in the interest  
6 of time here.

7           The first comment is from Jennifer  
8 Gilbert, with the City of Davis. And she has two  
9 comments. One is that the flexible waste container  
10 options showed in the presentation did not show a  
11 split recycling cart, where both sides of the cart  
12 collect only recycling paper on one side, glass,  
13 plastic and other metals on another. Are these  
14 types of carts allowed under the proposed  
15 regulations?

16           The second is that the proposed  
17 regulations require all businesses to have  
18 recycling and organics bins next to each trash  
19 container that conform with the containers provided  
20 for collection in both color and labeling  
21 obligations. The question in this comment is: The  
22 color-coding regulation specifies that only the  
23 lids need to be color compliant potentially for the  
24 outdoor containers, but what about the indoor  
25 containers?

1           So, both of those comments will be  
2 entered. Just a question response is yes in terms  
3 of split containers are allowed. And then, we'll  
4 have to review that in terms of the interior  
5 container lids.

6           Just two more comments, again  
7 paraphrasing. This Tracy Adams, from GreenWaste  
8 Recovery. Essentially, the definition of source-  
9 separated organic waste means organic waste that is  
10 placed in a container that's specifically intended  
11 for separate collection of organic waste by the  
12 generator. In approximately 40 jurisdictions  
13 throughout California, the street collection  
14 methodology is used where the homeowner is allowed  
15 to take yard trimmings and prunings, and place them  
16 in a pile on the street for subsequent collection.

17           Essentially, the comment is that this is  
18 not defined as specifically as allowed or  
19 disallowed in the regulation. Does the  
20 recommendation of CalRecycle alter the definition  
21 for leaves in the street collection methodology by  
22 adding the following -- by adding a definition in  
23 that section?

24           Again, I am paraphrasing these comments,  
25 but as they're submitted, they will be recorded,

1 and responded to in the rulemaking record.

2           Finally, this is Laureteen Brazil.  
3 Noting several comments that were submitted  
4 previously. One, now, the most valuable plastics  
5 are narrow-necked containers, primarily number one  
6 and two to keep recycling equipment carts and lids  
7 out of the landfill. Will there be a requirement  
8 for closed and opening action as a state level  
9 require to use the materials as feedstock for new  
10 equipment to keep it out of the landfill? That's  
11 one comment.

12           The second, are campgrounds and marinas  
13 that rent water equipment, like boats, jet skis, et  
14 cetera, included in the law?

15           And then, the third is will transfer  
16 stations accept food waste, food scraps for proper  
17 disposal? They accept vegetation, but will their  
18 organics programs be required to accept all  
19 organics for commercial composting?

20           And so, that will depend on the type of  
21 facility relative to the transfer station question.  
22 Marinas are included in the regulation. And then,  
23 the first one we'll have to -- I'm not sure that  
24 that's relevant to the rulemaking, but we will  
25 provide a written response as well.

1           So, with that, I'll open it up to folks  
2 here in the room.

3           MR. CHEYNE: Thank you. Andrew Cheyne,  
4 California Association of Food Banks. Three  
5 comments.

6           On Article 11, specifically 18992.2 in the  
7 edible food recovery piece. In A, we ask for  
8 inclusion of additional stakeholders. We support  
9 the planning process completely and want to be on  
10 record on that. But would encourage that the  
11 counties, and cities, and regional agencies  
12 coordinate with the stakeholders as they do the  
13 assessments.

14           Currently, as it's written there is  
15 specified engagement with emergency food recovery  
16 groups and other organizations in B, but that's  
17 only after the capacity is assessed. And we think  
18 it's prudent to actually talk with the groups on  
19 the ground who are going to have that firsthand  
20 knowledge. And so, to specify that that engagement  
21 occur, please, in A.

22           And then, in B, I just want to offer our  
23 strong and vocal support that this language remain  
24 in the final regulations. Coming from one of the  
25 few stakeholders who has been involved in this

1 process since the beginning, I want to thank the  
2 Department for making sure that our voice is part  
3 of this conversation. I know that we are kind of  
4 an interesting piece that fits into this much  
5 larger discussion. But it's simply the case that  
6 we are under-resourced nonprofits. There's 41 or  
7 so food banks across California and there's about  
8 6,000 other agencies that we would probably label  
9 food recovery organizations in this language. And,  
10 obviously, there's a dynamic space of food recovery  
11 services, and we all need to grow this.

12 But simply put, you know, this food is not  
13 going to truck itself, keep itself cold. You know,  
14 the fuel that's required, the staff time, and the  
15 administrative costs. And so, the only way that  
16 this is going to work is to maintain the language  
17 that enables and empowers local jurisdictions to be  
18 able to decide what the capacity is, what the gaps  
19 are, and then what the response is. Including the  
20 revenues, and resources, and approaches used to  
21 close that gap.

22 Finally, I just wanted to quickly comment  
23 on self-hauling. I realize that self-hauling is  
24 not exclusive to edible food by any means. But as  
25 I just mentioned, because of the lack of capacity,



1 we think of self-hauling as one creative way to get  
2 at those edible food recovery gaps in terms of  
3 recovery organizations, and potentially be able to  
4 work out one-to-one relationships as it fits all  
5 the parties.

6 So, I'll be back for the next section as  
7 well, thank you.

8 MR. GONCHAROFF: Good morning. Tim  
9 Goncharoff, Santa Cruz County.

10 I wanted to focus for a moment on the  
11 educational institutions. Those of us who speak on  
12 these issues around the State know that the level  
13 of awareness among local governments is not nearly  
14 what we would wish it to be.

15 I can tell you, among educational  
16 institutions this is not on their radar at all.  
17 So, I would encourage the Department to consider a  
18 targeted outreach program specifically for local  
19 school districts who need to know what's coming and  
20 start preparing.

21 I also wanted to share a little bit from  
22 our experience in Santa Cruz County. We began  
23 collecting and processing food waste from  
24 businesses, institutions, and schools in Santa Cruz  
25 County in 2006. At the elementary school level, we

1 have seen a lot of success. Middle schools and  
2 high schools not so much.

3           You might imagine, because they tend to be  
4 sprawling campuses full of teenagers that the  
5 logistical and oversight challenges are really  
6 problematic. And because local jurisdictions have  
7 very limited authority over schools, our ability to  
8 address these problems are also limited.

9           So, if we're going to have a successful  
10 program among educational institutions, I think the  
11 Department is going to need to consider what kind  
12 of oversight and assistance they can provide to  
13 help a school district succeed. Thank you.

14           MR. LEVENSON: John, before you make a  
15 statement, this is Howard Levenson again, for the  
16 court reporter.

17           I just wanted to make a correction. I  
18 realize that I spoke -- continuously cited Article  
19 3, and I just wanted to note that these provisions  
20 that we've been talking about are in Articles 3, 4,  
21 5, 6, 8 and 11. So, they're spread across those  
22 articles. Thank you.

23           MR. DAVIS: Thank you, Howard, that cleans  
24 things up. John Davis, Mojave Desert & Mountain  
25 Recycling Authority. I'll come back to one of

1 those.

2 But Cara, on the slides you'd show on the  
3 collection system I think were helpful. There's  
4 language in 18984.2(a)(3) that seems to allow what  
5 I would call a hybrid system, where you can put  
6 stuff in one container that isn't otherwise  
7 allowed. You really need to split that out from  
8 the section. It's really hard to read through and  
9 understand what is meant by that (a)(3) exclusion  
10 because there's language that comes back and seems  
11 to say, yeah, you can do it, but you can't do it.

12 And then, clarify both the monitoring  
13 bags, prohibited materials, all of those if you're  
14 going to relate it back to (a)(3) when you read  
15 down forward, do you really need to do the same  
16 level of monitoring on that hybrid container or is  
17 it like a grey container? So, just a suggestion.  
18 It would make it much more helpful to understand  
19 it.

20 On monitoring, generally, it seems like  
21 when you start a program, when you change  
22 something, you know, it's important to emphasize  
23 the quality to maybe the quarterly monitoring of  
24 all routes makes sense. As you go forward and  
25 people are performing well, why keep going back and

1 requiring the pretty massive expenditure of effort  
2 and funds. So, you know, give some relief once  
3 there's evidence that the program's working well.

4 To me, the evidence is at the receiving  
5 facility, the compost facility, the organics  
6 facility, the recycling facility that receives the  
7 material. And you've already got language in there  
8 that feeds that back into the monitoring loop. So,  
9 give some thought to not continually requiring  
10 quarterly monitoring when there's no necessity for  
11 it.

12 Howard, on the -- low population, that's  
13 really generation and not all communities are the  
14 same. And economically disadvantaged communities  
15 typically generate less per capita. And yet,  
16 you've got a population threshold that they have to  
17 reach. I'd suggest using 5,000 tons. If that's  
18 the number to use, use 5,000 tons. Why tie it to a  
19 population number, when you're really after the  
20 generation and you're after the reduction.

21 And far as the de minimis language, I  
22 looked at it and if you're less than two cubic  
23 yards, you need to be ten gallons of material. If  
24 you're over two cubic yards, you've got 20 gallons.  
25 You know, is it really 20?

1           And, you know, if you're less than 10  
2 cubic yards and you're, you know, 15 gallons, do  
3 you sign up for more service so you can get the  
4 exemption as a two-cubic-yard.

5           You know, so if it's really 20, just let  
6 it be 20 and not set that second hurdle on the  
7 really small generators.

8           Just a couple more, quickly. I've made  
9 suggestions before on using language that's in the  
10 Beverage Container Recycling Act to give some more  
11 flexibility on the rural definition. It uses a  
12 federal definition. It's already in statute at  
13 CalRecycle and would give you more flexibility.  
14 It's not a hard, fast number. It just says, you  
15 know, there may be other circumstances than being  
16 in a rural county.

17           The statute specifically did not use rural  
18 county as the threshold, and yet you've defaulted  
19 back to rural county. That's fine. But give some  
20 flexibility to those jurisdictions that are in non-  
21 rural counties, and it's already in your statute to  
22 do that.

23           And, lastly, on the capacity I admit that  
24 I did not break down that section maybe enough.  
25 Because, Howard, I think I understood you to say

1 that if the county doesn't have sufficient  
2 capacity, then all the cities in the county have to  
3 work to provide capacity. And maybe I  
4 misunderstood that.

5 Because if a city has the reservation of  
6 capacity, you know, they shouldn't have to go  
7 through an extensive process to provide the  
8 capacity they already have.

9 MS. MORGAN: John, I'm not sure I  
10 completely understood you. So, one thing I'll  
11 clarify is that it is only the jurisdiction that  
12 does not demonstrate it has adequate capacity has  
13 to provide the implementation schedule.

14 So, if the other cities and counties have  
15 demonstrated adequate capacity, there's nothing --  
16 they just continue to report in subsequent reports.

17 MR. DAVIS: There may be cities that don't  
18 have capacity. Overall county may not have  
19 adequate capacity. But there would be cities  
20 within that county that have adequate capacity  
21 there.

22 MS. MORGAN: Correct. Does that answer  
23 it?

24 MR. DAVIS: Okay, then I misunderstood.  
25 So, yeah, thank you.

1 MS. MORGAN: So, yeah, sorry if we weren't  
2 clear on that.

3 MR. ASTOR: Hello Hank. Kelly Astor, it's  
4 probably best I don't affiliate my comments to any  
5 one of my clients. But it is somewhat well-known  
6 that I represent the participants in the waste and  
7 recycling industry.

8 I want to talk about two specific or,  
9 rather, general comments within the array of  
10 chapters that you referred to, Dr. Levenson.

11 The first is facilities. And I guess I'm  
12 still somewhat concerned that these regulations  
13 appear to presume the sustained viability of the  
14 existing network of facilities and that the  
15 additional hundred or so facilities that we need to  
16 have come online will appear.

17 You make that assumption at the same time  
18 that the regulations themselves threaten the  
19 continued viability of certain kinds of facilities.

20 As I've explained many times before in  
21 meetings and in public, a number of these  
22 facilities were financed by my clients, who despite  
23 having a corporate history of 30 or 40 years of  
24 operation, where the owners were forced to  
25 personally guarantee them. We're talking tens of

1 millions of dollars. They didn't fall out of the  
2 sky. Someone has to come build them.

3 I'm concerned about the chilling effect  
4 some of the performance standards these regulations  
5 impost will have on the development of the new  
6 facilities that these regulations rely on.

7 I, therefore, believe that there ought to  
8 be some form of allowance. Call it a grandfather,  
9 or whatever you want, for facilities. And this can  
10 be mixed waste facilities. I can be other kinds of  
11 facilities. There are facilities out there that  
12 are 939 driven that provide significant diversion,  
13 that perform as they were designed to perform. Let  
14 us not do any injury to them.

15 We know that Section 2 of AB 341 actually  
16 stated the Legislature's intent six years ago that  
17 these facilities should be as a valuable asset.  
18 They provide a net environmental benefit to the  
19 community. Their continued operation should be  
20 sustained and they should be expanded.

21 Let's do no harm to the existing network.  
22 Give them at least a ten-year glide path where they  
23 can continue to operate, even if they don't qualify  
24 as high-performing MRFs, or whatever the new  
25 terminology is. And let's let the new rulemaking



1 be supplemental to, rather than diametrically  
2 opposed to some of the 939 efforts that we  
3 undertake.

4           Facilities aside, my other general comment  
5 is this. I've read the law itself, the statute  
6 rather closely, lately. And, you know, I see  
7 something of a gulf between what the statute says  
8 and the regs. But some of that is stylistic. You  
9 have, I think, the ability to be creative where you  
10 need to be and I recognize some of that discretion  
11 properly belongs with you.

12           But when we talk about safe harbors or we  
13 talk about good faith effort, or something in that  
14 vein, the reaction we've gotten thus far is it  
15 wasn't authorized by the statute.

16           I'm here to tell you there's an S load of  
17 stuff in your regulations that isn't directly,  
18 expressly authorized by the statute. So, just as  
19 you've taken some liberties there, and for good  
20 cause, I would urge you to consider providing some  
21 recognition in the regulations for what happens if.  
22 If all of the assumptions that are being made don't  
23 prove true. Some of us believe, we already know  
24 that the facilities development will not occur at  
25 the pace it needs to and we're going to be left

1 with inadequate processing capacity.

2 And then, of course, there's the whole  
3 markets question. If National Sort has taught us  
4 anything, we can't presume, indefinitely, the  
5 availability of adequate markets for the material  
6 we hope to recover in this way.

7 So, I'm not sure how that gets done, but I  
8 don't see an adequate enough expression of it now.

9 The last thing I want to end, though, is  
10 this. I do commend you for doing a very difficult  
11 job. And since this may be the last time I get to  
12 testify in front of Dr. Levenson, let me just say  
13 it's been a real pleasure.

14 MR. LEVENSON: My timing wasn't good  
15 enough, huh?

16 MR. ASTOR: No, it wasn't. I got one more  
17 in. Thank you very much for all that you've done,  
18 Howard, it means a lot.

19 (Applause)

20 MS. BALSLEY: Hello. My name is Rachel  
21 Balsley and I'm a Senior Program Manager at the  
22 Alameda County Waste Management Authority, also  
23 known as StopWaste. I lead our Mandatory Recycling  
24 and Composting Ordinance project, which has been a  
25 major project of our agency since its adoption in

1 2012. And 16 Alameda County jurisdictions have  
2 opted into that ordinance.

3 We've gained a lot of knowledge over the  
4 last seven years that has taught us what is  
5 practical and how we can use our ordinance  
6 enforcement as an attention-getting device in the  
7 commercial and multi-family sectors.

8 I respectfully want to submit that there  
9 are many aspects of the current draft of  
10 regulations that I don't believe take into account  
11 lessons learned about how to efficiently implement  
12 these types of programs. And the over 90 comments  
13 that we've submitted in written comments provide  
14 suggestions for changed language.

15 As it pertains to collection and planning,  
16 since multi-family properties are included in the  
17 definition of a commercial business, I'm concerned  
18 with the assumption that multi-family properties  
19 and businesses can be treated the same, with  
20 generator requirements and associated enforcement.  
21 Particularly, in regards to inspecting for organics  
22 in the garbage, and garbage and organics, and  
23 provision of organic and recycling containers in  
24 all areas where disposal containers are provided.

25 Our ordinance acknowledges that a property

1 owner or manager at a multi-family property does  
2 not have control over the sorting behavior of their  
3 tenants. And we only enforce against a lack of  
4 provision of service.

5           There is also a higher expectation of  
6 privacy in residential settings that needs to be  
7 considered. Early in our enforcement, ordinance  
8 enforcement, we attempted to inspect multi-family  
9 properties to verify provision of service and found  
10 that nearly half the time they couldn't get to the  
11 hauler bins due to access issues.

12           Also, our ordinance provides for granting  
13 of waivers, such as de minimis generation of  
14 physical space constraints.

15           The draft regulation language that  
16 requires annual verification of these waivers  
17 divert inspection and staff resources to these  
18 smaller generators from more important, larger  
19 generators, in my opinion.

20           Also, as it pertains to self-hauler  
21 requirements, in our ordinance and limitation we  
22 require businesses that self-haul, back-haul, share  
23 service or use a third-party, independent recyclers  
24 to submit a certification of recycling service form  
25 with information about where they're taking their

1 recyclables and organics.

2           While some of these are larger corporate  
3 entities that we've approved, many are small  
4 businesses that are trying to save money on  
5 collection costs by either taking their small  
6 amount of generated recyclables home or to a drop-  
7 off recycling facility.

8           The requirement to collect annual organic  
9 waste tonnage from smaller businesses would not be  
10 possible from those who aren't keeping track of the  
11 weights and back-hauling. And it's not worth the  
12 staff time to try and track that down. Thank you.

13           MR. BRADY: And sorry, just before the  
14 next commenter, if folks that are providing public  
15 testimony, if you have a business card -- I forgot  
16 to mention if you have a business card if you  
17 wouldn't mind providing that to the court reporter,  
18 it makes it much easier to accurately get your name  
19 into the record. So, just wanted to mention that.  
20 Go ahead.

21           MR. RYAN: My name is Paul Ryan and I'm  
22 representing my firm, PF Ryan & Associates.

23           Today, I'm speaking and testifying on  
24 behalf of comments I made during the informal  
25 rulemaking process regarding the provisions of the

1 waivers and the exemptions granted by the  
2 Department.

3           As you know, I represent and assist low-  
4 and moderate-income communities in the Southern  
5 California desert. I have both current and past  
6 clients that are small communities, with very few  
7 resources. Most of them have been classified under  
8 the EnviroScreen model as low-income, disadvantaged  
9 communities that are subject to 1550 regulations,  
10 as well as SB 617.

11           Within the structure of the exemptions  
12 that your Department provides, we have no relief  
13 for those communities. And as pointed out by John  
14 Davis earlier, we need to give some consideration  
15 to those communities. Because one current  
16 community that I work with has less than a ton a  
17 day of green waste, and primarily its palm, which  
18 you can't very easily process into viable products.

19           What I'm introducing today is some  
20 language that addresses a new section under the  
21 waivers and exemption criteria for extraordinary  
22 and extenuating circumstances exemptions. And this  
23 would mirror the rural exemptions, but only for  
24 those communities that are disadvantaged in the  
25 south.

1           Hopefully, the wisdom of you folks at the  
2           dais understand that jurisdictions in Riverside,  
3           San Bernardino and Imperial County, in the desert,  
4           don't have the economic wherewithal to process  
5           biogenic materials at the same level as the coastal  
6           communities, such as Beverly Hills.

7           I would hate to think that the City of  
8           Blythe, for example, would have to process at the  
9           same level as Beverly Hills. That's just ludicrous  
10          and impossible to consider.

11          We need to focus our attention on what SB  
12          1383 states. We need to focus on the air quality  
13          issues that impact the majority of the population,  
14          not the outliers.

15          As a former air pollution control officer  
16          for the desert, I want to attest to the fact that  
17          we have severe and extreme disadvantages in your  
18          communities that you need to consider. Thank you.

19          MS. STEIN: Hi, Antoinette Stein from  
20          Environmental Health Trust. And I have a PhD in  
21          the environmental engineering air quality control.

22          My comments on this section is from  
23          Article 5, 17867, the general operating standards,  
24          but it applies to some other sections, too. It's  
25          about the LEA or the authority having jurisdiction,

1 the AHJ, and other code.

2 It appears that you're giving the LEAs the  
3 oversight on odors, and on other matters of quality  
4 of the operations. And there's not a uniformity  
5 from one LEA, in my county, of Alameda County,  
6 thank you very much -- Alameda County versus the  
7 LEA down in Santa Clara County. They act and have  
8 completely different ways of responding to the odor  
9 complaints. Five years, Milpitas odor. If you go  
10 there, five years of complaints and, you know,  
11 there hasn't been much solution.

12 The LEA where I live, Davis Street,  
13 Alameda County says odors are not something that  
14 they have any authority over.

15 So, I think you have it written in here  
16 the odors and the LEA has jurisdiction. You know,  
17 I think there needs to be more uniformity. Thank  
18 you.

19 MS. SCHEIBLY: Kim Scheibly, Marin  
20 Sanitary Service. I believe this is Article 3,  
21 Section 1898.4 something, color-coding. It might  
22 be page 10, lines 27 through 29. I read it a few  
23 times.

24 One, color-coding is a great step forward  
25 for the State, I firmly believe. However, I do not



1 feel -- and this is in my comment letter along with  
2 pictures. But I thought it was worth reiterating.  
3 Dual stream recycling is not a split cart,  
4 necessarily. Dual stream recycling, from most in  
5 California, is separating fibers from containers.  
6 Not one side of a card landfill, one side food  
7 waste, one side recycling, one side compost. But  
8 one side's fiber and one side's container.

9           So, if the color's blue, am I dark blue,  
10 light blue now? Or, am I different color? Because  
11 it says I can choose a fourth color for a fourth  
12 stream. But now, my recyclables are a different  
13 color and everyone else's are blue. Just a  
14 thought.

15           MR. BRADY: Just one thing on that. We'll  
16 take a look, a closer look relative to the colors.  
17 I do think that one of your primary comments was  
18 don't just allow split containers, allow additional  
19 containers. The text is designed to allow for  
20 that. Not in that section, it's actually in the  
21 three-container collection system section. But we  
22 have your comment letter and we'll take a closer  
23 look and make sure we respond to that.

24           MS. MORGAN: Before we go to the next, I  
25 just want to make sure, your comment letter, does

1 it provide suggestions on what you would want it to  
2 be? If it doesn't, we're going to ask that you --

3 MS. SCHEIBLY: I can check it.

4 MS. MORGAN: Okay, just check that. If  
5 not, we would like you to provide that today.  
6 Okay, thanks.

7 MS. BROWN: Kourtnii Brown, California  
8 Alliance for Community Composting. We just wanted  
9 to extend our appreciation for the work that you've  
10 already done to be a lot more inclusive of the work  
11 of community composters in these regulations. So,  
12 we did want to recognize that we have seen some  
13 very significant changes.

14 But we'd like to start out with Article 3  
15 on collections, on the de minimis waivers,  
16 especially in rural areas. We're finding that this  
17 could be another opportunity to strengthen the  
18 language around supplemented onsite composting, on-  
19 farm composting cooperatives by allowing up to 30  
20 percent of feedstock to be sourced from offsite.  
21 So that farm cooperatives, themselves, can provide  
22 an opportunity for rural facilities to exist  
23 without needing to go through a full permitting  
24 process with CalRecycle.

25 This could be for facilities that accept

1 green material, agricultural material, agricultural  
2 byproduct material, herbivore manures, food  
3 material and vegetative food material up to 12,500  
4 cubic yards.

5           And the reason for this is that it could  
6 really offer an opportunity for community  
7 composting to not only be successful in urban  
8 areas, but also to be an option in rural areas that  
9 wouldn't be as accessible by collection haulers and  
10 local facilities in the area.

11           And then, the next point on collection,  
12 for self-hauling, we do appreciate that there is  
13 some language added to the draft regulations that  
14 say that any individual generator or a business,  
15 commercial can self-haul to community composting  
16 sites. However, I'm not sure if you're quite  
17 familiar with the self-hauling permit process.

18           In Alameda County, especially Oakland,  
19 this is an all or nothing package deal. You can't  
20 just apply for a self-haul permit for organic  
21 material, only. So, it puts the generator into a  
22 really tough position to say I'd like to donate  
23 some of this organic material to a community  
24 composting site in hopes that I would reduce my  
25 overall waste collection bill. However, I'm only

1 given the option to self-haul everything. That's  
2 makes them responsible for getting rid of their  
3 black bin and their blue bin on their own.

4 So, we're asking that maybe there could be  
5 language put in that allows self-hauling of  
6 organics only to community benefit composting.

7 Specific language that we'd like to  
8 recommend is for Section 18988.1, under  
9 Jurisdiction of Haulers and Self-Haulers, we'd like  
10 to add Section D. That would read: A jurisdiction  
11 shall not create unreasonable barriers to, or  
12 prohibitions against, the transport of organic  
13 material to a micro composting site, a community  
14 benefit composting site, or a supplemented onsite  
15 composting.

16 And then, we'd also just like to emphasize  
17 the education and public outreach portion, and also  
18 capacity planning. We do understand that you've  
19 put in some language here that encourages  
20 jurisdictions to include us in not only their  
21 capacity planning, when they think about total  
22 volumes of material that's passing through these  
23 sites. But recognize as the role that we play in  
24 educating communities on the proper way to compost.  
25 And this would help an overall system succeed in

1 reducing the amount of contaminants that make it  
2 into the green bin. As soon as individuals have an  
3 individualized connection with the composting  
4 process, they have more incentive to do it  
5 correctly and us a three-bin system.

6 So, as far as the public outreach, support  
7 and a little bit more coordination between  
8 jurisdictions and community composters. Maybe that  
9 could be through funding or budgeting offered also  
10 in these regulations. Thank you very much.

11 MR. BRADY: Thanks. And if I could just  
12 ask, if there's anyone else that's going to provide  
13 comments on this section, if you could please line  
14 up? It's 11 o'clock and we're scheduled to go  
15 until 11:15 on this section. So, we're going to  
16 ask that the folks here in the room limit their  
17 comments to about a minute and a half, so that we  
18 can meet that 11:15 time frame. And also, there's  
19 a number of comments that came in online, that  
20 we'll need to read after the public testimony here.

21 So, if you do want to provide a comment on  
22 this section, please line up now so we know if we  
23 need to adjust that time frame.

24 MS. FOSTER: Colleen Foster, City of  
25 Oceanside. Actually, I'm going to jump to

1 community composting. After about 15 years in this  
2 industry and hearing about every opportunity and  
3 loophole for generators to get out of paying their  
4 bills, or to be able to dump on their neighbor, or  
5 dump in the backyard, all their restaurants food  
6 waste or waste, I'm very concerned at the lack of  
7 accountability on community composting, in  
8 particular.

9 I do community composting. I support  
10 community composting. I think this regulation  
11 needs to support community composting. However, we  
12 need accountability for community composting. This  
13 regulation provides exemptions on community  
14 composting in regards to public nuisances, storage,  
15 size. It provides no language as to whether  
16 community composting operations should report.

17 However, businesses can say they're using  
18 community composting and I have no way to find out  
19 if that's true or not because there's no reporting  
20 system or interaction between the jurisdiction and  
21 the community composters, because they have a  
22 blanket exemption throughout the regulation and  
23 rule.

24 That also goes, taht also speaks to the  
25 other issue that I'm struggling with, our city's

1 struggling with, is the physical space waiver.  
2 It's really interesting, this rule is extremely  
3 prescriptive everywhere else. And overly  
4 prescriptive, that is the general comment  
5 throughout our letter.

6           But in regards to the physical space  
7 waiver, I can tell a business they have to put a  
8 can next to every trash and recycling inside their  
9 business, they have to label it such and such, et  
10 cetera. They have to do A, B all the way through  
11 Z. But if they claim they have a physical space  
12 waiver, they can get out of everything.

13           And I'm a coastal city, probably over 50  
14 percent of my generators would qualify under this  
15 physical space waiver. And when I look at having  
16 to fund the staffing and the infrastructure systems  
17 for this regulation, I can't do that if half my  
18 ratepayers are now exempt from these regulations  
19 just because their building was built in 1920,  
20 which is a significant portion of our buildings in  
21 our agency.

22           And lastly, I must reiterate, similar to  
23 what John Davis was saying earlier, Article 3, the  
24 collection section, is extremely difficult to  
25 navigate and understand. We're really struggling

1 with the concept of, really, the opportunity we're  
2 looking at is a fourth cart or a split cart. If I  
3 was to pursue those opportunities, I might as well  
4 throw our Climate Action Plan, Transportation  
5 Emission Reductions away because I'll have to add a  
6 whole new collection vehicle. I have to add new  
7 carts, new systems out there.

8 We were looking forward to using the  
9 yellow bag program, but I also do not like the idea  
10 of telling my generators to throw the yellow bag of  
11 food waste into a landfill bin. And so, there is  
12 confusion as to whether we could do a yellow bag  
13 program in our green waste or our blue recycling  
14 cart. I'm aware -- unsure it's why we can't do  
15 that, if we can do it in the landfill bin. So,  
16 thank you.

17 MR. BRADY: Thanks. I do want to clarify  
18 two points on that. Relative to the waivers, both  
19 at the community compost level and the physical  
20 space waiver, I think we probably disagree with  
21 that interpretation. Hopefully, if you articulated  
22 that in your written comment, we can provide a more  
23 thorough response to that. But the waivers for  
24 physical space are at the discretion of the  
25 jurisdiction. They're not a requirement that the



1 jurisdiction provide that.

2           And then, the community composting  
3 operations are limited by existing regulation based  
4 on their size, whether or not they qualify for  
5 community composting. But to the extent there's  
6 more detail in the comments, we'll provide a  
7 written response on that.

8           MR. OZORAK: Good morning. Etienne Ozorak  
9 from Sacramento County. And my question has to do  
10 with Section 18984, which has to do with  
11 identifying organic waste generators and then the  
12 definition that needs the person responsible for  
13 the initial creation of the material.

14           And in our county, we have about 40,000  
15 registered businesses. In our inspection regime,  
16 we have about 18,000. And the number of customers  
17 that actually have waste collection service  
18 aggregated between three haulers, three or four  
19 haulers is about 7,000.

20           So, when we're talking about enforcing,  
21 understanding these regulations, on enforcement  
22 would really apply to the 40,000 generators. So,  
23 some clarifying language would be useful. Because  
24 under 1 it says: Subscribing to and complying with  
25 the requirements of service or self-hauling.

1           So, the language should allow for joint  
2 sharing or, obviously where you've got multiple  
3 tenants in one as opposed to, you know, verifying  
4 service for 40,000 generators. Thank you.

5           MR. NOBLE: Dan Noble, with the  
6 Association of Compost Producers. We're the  
7 California State Chapter of the U.S. Composting  
8 Council.

9           Most of my comments, now, are on Article  
10 11, but that's really tied in to Article 12, the  
11 procurement regulations.

12           But capacity building, again, I want to  
13 reinforce the notion that capacity isn't just, in  
14 our mind, production capacity. Because in a  
15 private sector business you would never build  
16 production unless you had a market.

17           These regulations, because we're diverting  
18 from landfills, we're creating production capacity  
19 assuming that somehow the local jurisdictions will  
20 take care of the markets.

21           Unfortunately, every player in this  
22 industry does not have access to all the markets.  
23 It depends on what products they're making. So, to  
24 Julia Levin's point, not only do we have compost,  
25 we do have mulch, and chip and grind material. We

1 also have biofertilizers, which are organic  
2 fertilizers made from bioresource feedstocks. We  
3 also have biochar, which is made from a totally  
4 different process, as Julia pointed out.

5 All of us are competing in the same market  
6 space. In addition, you have food recovery, which  
7 can go to animal feed, which goes to the AG  
8 markets, which have their own residuals.

9 So, I think we have to look at this  
10 regulation in the context of local markets. Every  
11 county has more or less urban versus rural. So, I  
12 don't know, necessarily, how you put it in the  
13 regulations.

14 One of the best ways to highlight the  
15 notion that you have to balance supply with demand  
16 capacity is just to define capacity as balanced  
17 supply and demand. The idea is to get profit, is  
18 to have more demand than you have supply.  
19 Otherwise, you're going to lose money. So, that's  
20 part of the triple bottom line.

21 Also, there's a whole planning process  
22 which came through -- you know, was initiated in AB  
23 876, which looks like it's being folded into  
24 Article 11. I don't know if that's on purpose, or  
25 it's assumed but -- it is assumed.

1 MR. BRADY: Yeah, and if you can wrap up  
2 your comments?

3 MR. NOBLE: Yeah.

4 MR. BRADY: We're just going to take the  
5 remaining comments that are standing, currently.

6 MR. NOBLE: Okay, so I have these in  
7 writing. But the question is, is how much gets  
8 written into the regs as a pointer versus how much  
9 are you expecting to happen by the local industry  
10 on the back end.

11 MR. EDGAR: Neil Edgar. And as soon as I  
12 get done reading my six-page letter into the  
13 record, I'll have a few comments.

14 The letter earlier was from GreenWaste  
15 Recovery. And I think like many other folks in the  
16 room, they wanted to see some discussion today  
17 about the definitions in Article 1. A lot of folks  
18 have alluded to that. And I'm not sure if there's  
19 a separate process, but I know in the interest of  
20 time today it would have been difficult to add that  
21 in to the agenda.

22 I'm on behalf of the California Compost  
23 Coalition, some questions about the collection,  
24 cart colors, yellow bag programs. I think the  
25 examples you've provided maybe don't show the full

1 range of flexibility that are available and entail.

2 I know there are existing programs where  
3 there are green or yellow inserts into existing  
4 grey and black bins. Those programs probably need  
5 to be considered as part of future options.

6 Also, as has been mentioned, loose-in-the-  
7 street collection is a pretty prevalent practice in  
8 the State and is not considered in the regulations,  
9 and should be.

10 And then, in several sections of this  
11 article there are references to green carts, in  
12 particular with the collection frequency waivers  
13 and other sections, it doesn't have any recognition  
14 of the yellow cart. So, clearly, a separate item  
15 that should be subject to the same limitations.

16 And then, lastly, as other folks have  
17 mentioned, I think there needs to be some future  
18 process whereby, as my good friend Rachel Oster  
19 said, the success of this program is robust, and  
20 people are -- birds are singing in the trees, if  
21 they haven't been wiped out by global warming. And  
22 operators may be able to reduce the frequency of  
23 route reviews and other practices. There should be  
24 some sort of end-of-life where mature, successful  
25 programs that have proven compliance can reduce a

1 lot of the busy work. Thanks.

2 MS. BOSKOVICH: Good morning. My name's  
3 Alex Boskovich. I'm from Alameda County Community  
4 Food Bank and we are a member of the California  
5 Association of Food Banks.

6 We're very appreciative of the opportunity  
7 to offer our feedback and we're excited to partner  
8 with CalRecycle and our State around sustainability  
9 goals. Because as we all know, the impacts of  
10 climate change disproportionately impact low-income  
11 communities and communities of color.

12 In Alameda County, we're serving one in  
13 five residents, about 110,000 folks a month. And  
14 food recovery is a significant portion of our food  
15 portfolio, so to speak. At the retail level of  
16 food recovery, as well as direct manufacturer  
17 relationships, we're recovering roughly 10 million  
18 pounds a year in food. So, we're excited to be  
19 here.

20 But also want to reiterate a couple of  
21 points that our association has made, which is that  
22 we are in strong support of the capacity planning  
23 process outlined in Article 11. However, we really  
24 want to ensure that food banks continue to be  
25 partners. And we'd like that language strengthened

1 in the fact that as counties and jurisdictions are  
2 doing those internal assessments that food recovery  
3 organizations, like food banks, are not considered  
4 after the fact. We want to be at the table early  
5 on and we'll want to give credit to our partners  
6 locally, like StopWaste, like the Cities of  
7 Livermore and Oakland, who are already beginning to  
8 engage us.

9           One of these we constantly hear is there's  
10 a lot of cross-informing that needs to happen. And  
11 so, you know, we don't want our government  
12 officials to do all this work only to have us say,  
13 actually, you missed some really huge components  
14 and we need to go back to the drawing table.  
15 There's a fast time, I understand.

16           The other piece of this is we also  
17 strongly support the process around having clear  
18 implementation schedules. But we have to reiterate  
19 that we need a prioritization of the actual cost to  
20 recover food safety. Food safety is imperative.  
21 And costs that maybe are typically overlooked, like  
22 transportation, fuel, cold storage, all the roots  
23 of food safety standards cannot be overlooked.  
24 Administrative support cannot be overlooked.

25           A food bank of ours, which we have over

1 100 staff and over 200 community-based organization  
2 partners, 50 percent of those 200 partners are 100  
3 percent volunteer run. So, everything from the  
4 thermal gun to an experienced driver. If we're to  
5 meet the State's goals around food recovery, we  
6 need to be able to do so with true and accurate  
7 capacity.

8           So, again, we thank you for the  
9 opportunity to comment and we look forward to  
10 hanging out with you this afternoon.

11           MS. HEATON: Good morning. Staci Heaton  
12 with the Rural County Representatives of California  
13 and the Rural County Environmental Services Joint  
14 Powers Authority. No, I'm not Mary Pitto, but  
15 she's watching me right now and might yell at me  
16 later, if I don't say this. Right. So, hi Mary.

17           So, I wanted to specifically address  
18 Article 11, Section 18992.2, and I'll be brief.  
19 So, we realize that, you know, local solid waste  
20 managers are our partners in achieving edible food  
21 recovery goals and that it's rational to include an  
22 education and outreach competent to the food  
23 recovery program, and for us to assist in providing  
24 access to the organizations and services available  
25 to generators. And that monitoring and compliance



1 adds significant staff time and costs. And we  
2 recognize that and understand the necessity to be  
3 able to measure achievements.

4 But we believe that it's really beyond the  
5 scope and capacity of our solid waste managers to  
6 increase and fund edible food recovery capacity  
7 because of our constraints. So, thank you.

8 MR. BOONE: Two small points, I think.  
9 Arthur Boone again. I worked with hurricane  
10 cleanup in Florida, in 2004. And I was on the West  
11 Coast for about four hurricanes that went through  
12 there. There were trees everywhere, houses torn  
13 down, a lot of stuff.

14 The idea of leaving the discretion of what  
15 you're going to do with materials to the local  
16 government is a very scary process. Because  
17 recycling was absolutely the last thing on  
18 everybody's mind.

19 The goal of the community, politically and  
20 economically, is to restore the status quo as  
21 quickly as possible. And that meant getting rid of  
22 stuff, out of the way. Whether it got burned,  
23 buried, they didn't care. They just wanted it off  
24 the streets. And so, and that's the kind of  
25 pressure that they're under. People have lost a

1 tremendous amount of their personal wealth  
2 frequently, so there are a lot of issues that  
3 affect local governments.

4 I think there needs to be a body of review  
5 at a higher level. FEMA does not do that. And so,  
6 I think the State people who are concerned about  
7 filling up our landfills with stuff, if we took a  
8 little time, intermediate stations to stash stuff  
9 things like that, you really need to think that  
10 through. There could be people on staff here that  
11 would be helpful.

12 The second point has to do with the use of  
13 the term waste to refer to source-separated  
14 organics. I've had a couple of potential clients  
15 scared away from setting up collection systems to  
16 move source-separated organics to the East Bay MUD  
17 facility. East Bay MUD is an under -- has a  
18 wastewater treatment plant in Oakland that is under  
19 capacity. It was built to handle all the canneries  
20 that were then in Oakland, which are no longer  
21 Oakland.

22 They are looking for raw organics to feed  
23 into their process. The fact that these are called  
24 wastes raises the question of what does the  
25 franchise say about all of this.

1           As you know, in the July 20 print of AB  
2 939, they changed the definition of recycling for  
3 something to do with wastes, to something to do  
4 with materials that would otherwise become solid  
5 wastes. Do you remember that? And it returned to  
6 the stream of commerce.

7           I have not seen any court decisions or any  
8 policymakers say it's very clear that source-  
9 separated organics are like source-separated  
10 recyclables. And so, a lot of people are afraid of  
11 that.

12           And if you look at the fact that people  
13 who do -- three-cart people, earnest people, the  
14 amount of material that they put in their recycling  
15 part and the organics cart far outweighs what they  
16 put in their garbage cart which, typically, is a  
17 little bit of plastic and a bunch of other stuff  
18 they don't know what to do with.

19           So, I think it's really important to leave  
20 the market open to encourage people to set up these  
21 kinds of managements. Waste Management chose not  
22 to contract with East Bay MUD to haul the organics  
23 to that facility. That has never been discussed.  
24 But the fact that it's called a waste scares away  
25 people who want to argue about that. That's all,

1 thank you.

2 MR. BRADY: Thanks. We have Kourtnii and  
3 Alex.

4 MS. BROWN: Kourtnii Brown, California  
5 Alliance for Community Composting. I just wanted  
6 to come up and add one additional, brief comment in  
7 response to the representative from the City of  
8 Oceanside.

9 Community composting, I just want to  
10 clarify it's not really getting a blank slate under  
11 SB 1383. This is just clarifying the role of a  
12 supplemental role that we can play in meeting the  
13 State's goal for capacity.

14 So, what we would like to do to build  
15 confidence in not only jurisdictions, but also the  
16 State, is suggest that there be additional  
17 amendments made to Title 14, Chapter 3.1, on  
18 composting operations regulatory requirements.

19 In our written comments we actually  
20 submitted, we said we'd like to see a published  
21 list of best management practices for community  
22 benefit composting and micro composting. This can  
23 be recommended voluntary self-assessment, or it  
24 could be a voluntary State certification program in  
25 an effort to alleviate local regulatory concerns

1 and inconsistencies across jurisdictions and State  
2 agencies. We've seen that done in other states.

3 And then, also to reemphasize that the  
4 micro hauling option of community composting can  
5 also be supplemental to a jurisdiction's large-  
6 scale hauling programs, and we've seen that be  
7 successful in other states.

8 And so, if there were -- are definitely  
9 concerns about quality control and rate structures,  
10 that some set of best management practices and also  
11 working in tandem with the jurisdictions can help  
12 alleviate a lot of those concerns. So, thank you.

13 MR. OSEGUERA: Alex Oseguera with Waste  
14 Management. The last person, so I'll make it  
15 quick.

16 In terms of the mentioning of looking at  
17 route reviews, education and outreach, and then I  
18 think a concerning area is that there's a May  
19 Statement to Notice.

20 So, in terms of having a holistic program,  
21 if there is, you know, the route reviews and  
22 analysis, there is the education and ongoing  
23 outreach, then there should be a will statement to  
24 the notice. And the State encourage and provide  
25 examples throughout the State as what's working in

1 terms of those notices. Is it a warning system?  
2 Is it a warning system with something that's  
3 punitive? Or, how do you address the  
4 contamination?

5 I just want to highlight that under AB  
6 939, and what has happened with the international  
7 markets and in terms of quality, you know, China,  
8 India and the rest of the world is looking at very  
9 low levels of contamination. I mean, .0 whatever 1  
10 percent at, right.

11 And in terms of AB 1383, we have to ensure  
12 that the feedstock that we get into the facilities  
13 is something that's usable. If we produce a very  
14 low-quality compost or other products, where will  
15 the markets be for that material if no one wants  
16 it?

17 So, once again encourage that, yes, we're  
18 going to have route reviews, we're going to have  
19 education and outreach, and continually, but also  
20 making sure that that last portion is also a will  
21 statement. So, thank you.

22 MR. BRADY: Thank you everyone for the  
23 comments on this section and invite the next  
24 panelist to come up. It's a special treat for  
25 everyone because Kyle Pogue put his tie on earlier.

1 So, he really respects -- while they're coming up  
2 and getting set, I'm going to read a couple of the  
3 additional comments that came in, and then we will  
4 come back to some of these towards the end of the  
5 day, as well.

6 One comment from Alexander Fund, with San  
7 Gabriel Valley Council of Governments. Again  
8 paraphrasing, but we do have your comment in  
9 writing and we'll add that into the record.

10 Our member agencies are concerned with the  
11 lack of sufficient funds available to implement new  
12 organic waste diversion programs. There's an  
13 uneven distribution of waste disposal  
14 infrastructure across California and capacity is  
15 limited where the infrastructure does exist.

16 While the proposed regulations provide a  
17 few years to implement the programs, our member  
18 agencies are heavily concerned that there's  
19 insufficient time given to develop, and evaluate,  
20 and permit new facilities.

21 More to the comment than that, but we will  
22 include it in the record, but that's essentially  
23 the gist of it.

24 And then, an additional comment from Tracy  
25 Adams with GreenWaste, on Section 18984.5, and how

1 containers should be monitored for contamination on  
2 the daily route. As this provision exists, there's  
3 a burden to monitor all routes, even those that  
4 have shown that they are consistently compliant  
5 with the provisions of SB 1383.

6 Essentially, the recommendation is to  
7 place more emphasis on the solid waste facility  
8 check for contamination, and less emphasis on the  
9 route review.

10 Again, we have that comment in writing and  
11 we'll enter that into the record and provide a  
12 response.

13 A couple other comments that came in, but  
14 we'll read that after this presentation concludes.

15 MR. POGUE: Well, good morning everybody.  
16 I'm Kyle Pogue. This is my colleague Martine  
17 Boswell. We also answered a team edible.

18 And two, we're also open to applause so --

19 (Laughter and applause)

20 MR. POGUE: We're here today to talk to  
21 you about the proposed edible food regulations. SB  
22 1383 requires California to recover 20 percent of  
23 currently disposed edible food for human  
24 consumption by 2025. SB 1383 also requires  
25 CalRecycle to adopt regulations intended to help



1 achieve this goal.

2           This is not a goal for individual  
3 jurisdictions to recover 20 percent of their  
4 surplus edible food. And this is not a goal for  
5 individual food facilities to recover 20 percent of  
6 their surplus edible food. This is a statewide  
7 goal that we must collectively achieve.

8           Before we discuss the proposed  
9 regulations, we first would like to discuss the  
10 definition of edible food. Maybe before I go  
11 there, let me backtrack real quickly and let you  
12 know that edible food regulations are included in  
13 Article 4, 9, 10 and 11. We're most focused on  
14 running through Article 10 here, today.

15           In the current draft regulations, edible  
16 food is defined as the following:

17           Edible food means unsold or unserved food  
18 that is fit for human consumption even though the  
19 food may not be readily marketable due to  
20 appearance, age, freshness, grade, size, surplus or  
21 other conditions.

22           And I will note, this is actually included  
23 in Article 1 in the definitions. All edible food  
24 must still be in compliance with Cal Code  
25 requirements for safe food handling and food

1 donation.

2           And on this slide, we provide an example  
3 of food that would be in compliance with Cal Code  
4 requirements on your right-hand side. In  
5 requirements for safe food donation and food that  
6 would not.

7           The photo on the left shows food that is  
8 fit for human consumption, and there is no donation  
9 dumping occurring, presumably in this slide, or in  
10 these photos.

11           The photo on the right shows food that is  
12 out on an unnamed, open buffet line. Current Cal  
13 Code would not allow for this food to be donated.

14           I think it's also noteworthy that for  
15 purposes of these regulations, edible food is not  
16 solid waste if recovered and not discarded.

17           The proposed edible food recovery  
18 regulations will most involve the following groups,  
19 jurisdictions, commercial edible food generators,  
20 food banks, and other smaller partner distribution  
21 organizations, such as food pantries, local health  
22 departments, food recovery services and food  
23 recovery kitchens.

24           The proposed regulations could also  
25 include other groups such as local food policy

1 councils and food delivery services.

2 This slide does not show every group that  
3 could be involved, but these are some of the key  
4 stakeholders that will play a leading role in  
5 helping the State achieve its edible food goals.

6 The draft edible food recovery regulations  
7 include three key policy components. One,  
8 jurisdictions must each implement an edible food  
9 recovery program.

10 Two, direct requirements will be placed on  
11 commercial edible food generators to arrange to  
12 have their surplus edible food be recovered by a  
13 food recovery organization or service.

14 In addition, commercial edible food  
15 generators will be required to maintain records.

16 And finally, food recovery organizations  
17 and services will be required to maintain records  
18 and report certain information to local  
19 jurisdictions.

20 As we mentioned, the first key policy  
21 component is that each jurisdiction will be  
22 required to implement an edible food recovery  
23 program. And to comply with these program  
24 requirements it must include the following.  
25 educate commercial edible food generators on the

1 requirements, increased access to food recovery  
2 organizations, monitor commercial edible food  
3 generator compliance, and increase edible food  
4 recovery capacity.

5           Although not a requirement, we have also  
6 included language in the draft regulations stating  
7 that a jurisdiction may fund their edible food  
8 recovery program through franchise fees, local  
9 assessments, or other funding mechanisms. We  
10 include this provision to encourage and promote the  
11 development of sustainable funding for food  
12 recovery operations in each jurisdiction.

13           And at this point, I'll it over to Martine  
14 to go into a little bit more detail about  
15 commercial edible food generators, and food  
16 recovery organizations and services.

17           MS. BOSWELL: So, as Kyle mentioned, there  
18 are three key policy components that we're going to  
19 be discussing today. He talked already about the  
20 jurisdiction edible food recovery program. And I'm  
21 now going to cover the key policy requirements for  
22 commercial edible food generators and recordkeeping  
23 requirements for food recovery organizations and  
24 services.

25           So, commercial edible food generators will

1 have direct requirements placed on them. The  
2 commercial edible food generators have been broken  
3 into two tiers. Tier one commercial edible food  
4 generators will be required to have their surplus  
5 edible food be recovered for human consumption  
6 beginning January 1st, 2022.

7           These generators include supermarkets,  
8 grocery stores with a total facility size equal to  
9 or greater than 7,500 square feet, food service  
10 distributors and wholesale food markets.

11           Tier two commercial edible food generators  
12 will be required to comply beginning two years  
13 later, January 1st, 2024. These groups include  
14 restaurants with 250 or more seats or a total  
15 facility size equal to or greater than 5,000 square  
16 feet, hotels with an onsite food facility and 200  
17 or more rooms, health facilities, which would  
18 include a hospital with an onsite food facility and  
19 100 or more beds, large venues and large events,  
20 State agencies with a cafeteria with 250 or more  
21 seats, or a cafeteria facility size equal to or  
22 greater than 5,000 square, and local education  
23 agencies with an onsite food facility.

24           And important to note is that K through 12  
25 schools are included as local education agencies.

1           So, those are the generators in the  
2 current proposed regulations. The key requirements  
3 of these commercial edible food generators is that  
4 they must arrange for their edible food that would  
5 otherwise be disposed to be recovered for human  
6 consumption.

7           And they can comply with this in one of  
8 two ways. Either through contracting with food  
9 recovery organizations or food recovery services  
10 that will collect their edible food, or through  
11 self-hauling their edible food to a food recovery  
12 organization, or a food recovery operation that  
13 they have an arrangement with.

14           Commercial edible food generators will  
15 also be required to maintain records. They will be  
16 required to maintain records of the contact  
17 information for each food recovery organization and  
18 service that they've contracted with, a copy of the  
19 contract, MOU, or other documentation of their  
20 arrangement. The types of food that each food  
21 recovery organization or service will collect. The  
22 established frequency that the food will be  
23 collected. And the quantity and pounds of food  
24 that they have donated or they can provide an  
25 alternative metric.

1           So, those are the key requirements for  
2 commercial edible food generators. I'm now going  
3 to shift and talk about the recordkeeping  
4 requirements for food recovery organizations and  
5 services.

6           In the current proposed regulations, the  
7 requirement is that a food recovery organization or  
8 service that collects or receives six tons or more  
9 of edible food directly from commercial edible food  
10 generators per year, shall maintain a record that  
11 includes the following. The name, address and  
12 contact information for each edible food generator  
13 that the service or organization collects or  
14 receives edible food from, and the quantity and  
15 pounds of edible food collected from each edible  
16 food generator per month.

17           Those were the key policy components that  
18 we wanted to discuss today. We hope that these  
19 regulations will have really great benefits for  
20 communities, including reduced GHG emissions  
21 through keeping edible food out of the total  
22 disposed waste stream, putting that food to its  
23 highest and best use of helping to feed people in  
24 need. We also hope that these regulations will  
25 help strengthen relationships between commercial

1 edible food generators and food recovery  
2 organizations. And we hope through the  
3 jurisdiction edible food recovery program that  
4 these regulations will also help to develop  
5 sustainable funding for food recovery operations.

6 So, thank you for your time. At this  
7 time, we'll take questions.

8 MR. BRADY: Yeah, can we have everyone  
9 that wishes to make a comment or provide testimony  
10 on this -- you don't necessarily have to line up  
11 right now, but just get a show of hands so we can  
12 get a sense of how many folks will be providing  
13 testimony. Okay.

14 I think we have until about 12:15 for  
15 comments. So, if folks could please, if you can  
16 keep your comments to about two minutes on this.  
17 To the extent that we have time at the end, we can  
18 come back to additional comments.

19 Before public testimony here, I just want  
20 to acknowledge we did receive a letter from Mike  
21 Learakos, with Waste Not OC. It's fairly lengthy  
22 and I'm not going to read it in its entirety. Just  
23 noting that there are several comments on square  
24 footage requirements relative to tier two. A  
25 recommendation to add a third tier for edible food



1 generators. And then, some comments as well on  
2 recordkeeping for edible food recovery services and  
3 organizations.

4 Quite a bit more detail to it than that,  
5 just noting that we do have your comments and we'll  
6 have them in the record.

7 Tim.

8 MR. GONCHAROFF: Tim Goncharoff, Santa  
9 Cruz County. I wanted to speak to the 2014  
10 benchmark year.

11 For those of us who are early adopters,  
12 this is an issue in regard to organic waste  
13 diversion. But even more so in regard to food  
14 rescue.

15 Santa Cruz County had the very first food  
16 rescue program in California. It's still one of  
17 the largest, most robust and successful programs.  
18 It's been operating since 1972.

19 And using 2014 as the benchmark year means  
20 that more than 4,000 tons of food rescued annually  
21 will not count. And the ironic result of that is  
22 that one of the more successful programs in this  
23 State may appear to be in noncompliance. And I'm  
24 sure that's not your intention.

25 I suggest a simple fix. You might add to

1 the regulations a provision that those  
2 jurisdictions that had program prior 2014 could  
3 appeal to have those totals included in a total  
4 amount of food rescued being calculated. Thank  
5 you.

6 MR. BRADY: Thanks Tim. And I'm generally  
7 not responding to comments today, but do want to  
8 clarify. That's not the -- that's not a correct  
9 interpretation of the regulations in terms of the  
10 requirements for jurisdictions, both for collection  
11 and edible food recovery. The targets are not, and  
12 they're statutorily prohibited from being applied  
13 directly to local jurisdictions. So, there's no  
14 misallocation of credit for efforts taken prior to  
15 2014 that you would be penalized for.

16 MS. FOSTER: Colleen Foster, City of  
17 Oceanside. One thing that I'd like to ask  
18 CalRecycle for assistance with is do everything you  
19 can with this rulemaking to help not make the  
20 jurisdictions the bad guy. Okay. And I think  
21 there are sections in this rule that really put the  
22 burden on the jurisdiction to be the difficult one  
23 with our generators and our diversion activities.

24 So, that falls into play a little bit with  
25 edible food recovery, as well as community

1 composting is we want to support these activities.  
2 We appreciate the fact that this rule is trying to  
3 really create space for these opportunities. But  
4 one of the issues we're seeing throughout the rule  
5 is that there is a significant burden on the  
6 jurisdictions for reporting about all of these  
7 activities.

8           However, it's not very clear on the  
9 reporting requirements for these types of  
10 activities. So, for example, in edible food  
11 recovery you require recordkeeping by edible food  
12 recovery generators and services. However, there's  
13 nothing in there to say that they need to provide  
14 those records to the jurisdiction that's being  
15 required to report on these activities to the  
16 State.

17           And I've been a Chair of The Food Policy  
18 Council for the next -- for the last four years.  
19 And there's actually a lot of privacy within the  
20 edible food recovery space and within the feeding  
21 agency space.

22           So, when a jurisdiction goes to these  
23 agencies and services and asks what are you doing,  
24 there's not an open arm tendency to provide the  
25 information that they do have.

1           So, what we're asking is help us support  
2 these agencies, help us be able to provide the  
3 information you require in the reporting by making  
4 sure that you clarify that community composting,  
5 edible food recovery is required to provide those  
6 records and documents for activities to  
7 jurisdictions per their request or, maybe at  
8 minimum, on an annual basis. That will help us  
9 support them and our community. Thank you.

10           MR. BRADY: Thanks. And I do want to just  
11 note because that's actually not an item that would  
12 really come up in Article 11 -- or, Article 10 on  
13 edible food recovery. But in the articles on  
14 reporting and enforcement there is language  
15 relative to access to records, as well as  
16 confidentiality of records that will be talked  
17 about in a little bit.

18           MS. BENIWAL: Hi there. Bonnie Beniwal  
19 from Californians Against Waste. I just want to  
20 thank you for the opportunity to take our ongoing  
21 input.

22           We see two potential issues in this  
23 section. First, we see potential for a loophole,  
24 as evidence by France's food waste laws.  
25 Currently, there's a mandate for generators to have

1 a written contract with food recovery services and  
2 organizations, but not actually done the food. So,  
3 this has been seen for the past two years in  
4 France, through anecdotal evidence where generators  
5 can donate, you know, even as little as one percent  
6 of the food that would be disposed of.

7 So, we recommend, you know, looking  
8 through the wording of this and making sure that  
9 there's some sort of minimum set.

10 Second of all, we would like to see a  
11 separation definition for edible food and  
12 recoverable food. Specifically, in edible food,  
13 the phrase unserved and unsold lowers the baseline  
14 of the 20 percent that would need to be recovered.  
15 Including, you know, amongst others, food waste  
16 generated at home. So, we'd like to see a more  
17 inclusive definition.

18 So, you know, that these regulations can  
19 be as effective as possible in meeting its many  
20 goals including co

21 MS. SCHOONMAKER: Hi, Kelly Schoonmaker,  
22 StopWaste

23 I have a couple of quick clarifying  
24 questions. I know you guys are not really -- you  
25 know, not responding, but you might be able to, to

1 these.

2           Okay, here's a question. I can't wait  
3 until the next job to find out. So, the first  
4 question is about the six tons and the food  
5 recovery organizations that accept six tons or more  
6 need to, you know, report on which generators.

7           Now, does that mean six tons from tier one  
8 and tier two generators, only, or all generators?  
9 So, that's question one.

10           The other one is kind of similar which is  
11 when the jurisdictions have to provide a list.  
12 Now, is that just recovery organizations that  
13 accept food from tier one and tier two, or like  
14 everything, very comprehensive.

15           Thank you, I'll take my answer to my seat.

16           MR. SHANE: Hi, Andrew Shame from  
17 California association of food banks. So, want to  
18 thank the Department for taking our feedback many  
19 times, including today. And just will try to keep  
20 my comments brief. But, obviously, this is the  
21 heart of where we touch this.

22           I just wanted to say that I held my  
23 comments earlier on definitions, but we've provided  
24 comments on several definitions, including on  
25 edible versus recoverable. And we've also provided

1 some existing language about apparently wholesome  
2 food that's in both federal and state statute that  
3 we hope can help provide some consistency and  
4 clarity to the Department as you consider that.  
5 Although, we strongly encourage that definition to  
6 be delineated.

7           In terms of Article 9 and I'm sorry, I'm  
8 not exactly sure where that is being talked about  
9 today, I didn't see it on the agenda. We just want  
10 to make sure that it's essential, that it's  
11 retained that the acceptance of donations of loads  
12 on the recovery side is voluntary. I mean, this is  
13 only going to work in that situation, in the sense  
14 that we have already-under-resourced nonprofits who  
15 are simply not able to take all types of loads.

16           And again, we think that there is strong  
17 structures in place in terms of either self-  
18 hauling, or working through the jurisdiction  
19 process to have that. But those are only -- those  
20 structures are only going to work with some very  
21 clear language that's here, that must be retained  
22 about that voluntary participation.

23           We also want to make sure that food  
24 recovery organizations are treated different from  
25 food recovery services in a couple of ways. One is

1 sort of an overarching point that we know is  
2 difficult to land in the language, and so I just  
3 want to acknowledge that, but continue our emphasis  
4 about the potential for unintended consequences.  
5 That as some organizations are able to accept  
6 donations, and then repurpose them and sell, even  
7 if it's under a 501(c)(3) tax structure of a  
8 nonprofit that that is going to create a potential  
9 revenue stream that for emergency food  
10 organizations who are always going to give that  
11 food away to people in need, that that creates a  
12 potential imbalance, especially down the road. And  
13 again, we understand that the emergency food  
14 recovery organizations cannot and should not take  
15 all of this edible food. We're not advocating for  
16 that by any means. But that dynamic is of a  
17 serious concern when food banks and the  
18 organizations are already struggling to access  
19 enough food to feed hungry people.

20           And we think that there is just no better  
21 documentation than the EPA's food recovery  
22 hierarchy, right, which very clearly says that the  
23 food should go to hungry people. That's obviously  
24 not in the statute. But we encourage consideration  
25 in the regulations about donations for free or for



1 people in need. There's several in which we've  
2 provided examples for how to get to that.

3           And then, finally, on the data reporting,  
4 I know that's formally later, but it did come up a  
5 bit in the presentation, I just want to acknowledge  
6 that we have -- we asked for the six-ton  
7 requirement. It was put in place. And now, we're  
8 asking for something else. And I'm sorry that we  
9 are changing midstream. But it just -- you know,  
10 in full transparency for all the stakeholders in  
11 the room, I was unfortunately given some inaccurate  
12 information from one of our member food banks. And  
13 upon further consultation, and I just want to  
14 respond specifically to the very valid point, I  
15 believe by the presenter from -- the comment from  
16 Oceanside that there are serious privacy concerns.

17           And that there are MOUs with donors that  
18 occur, actually not just in California, but across  
19 the country in how food banks secure donations from  
20 several types of what we call generator or  
21 donators, donors that prevent the sharing of donor  
22 level data.

23           And that we are really asking for a  
24 different approach that acknowledges that if there  
25 is the need for a jurisdiction to verify some

1 potential discrepancy or an evaluation toward the  
2 20 percent goal that the data are largely held,  
3 especially by organizations that are taking large  
4 amounts of material.

5           But we need to design the regulations in a  
6 way that's not going to be disruptive. And it's in  
7 some ways impossible for food recovery  
8 organizations to provide. And it sounds like  
9 there's already some issues in the field. And so,  
10 I think that we can come together and figure that  
11 out.

12           But as written, it's unworkable. And I  
13 just want to apologize from our own contribution to  
14 that, the way it's written.

15           Finally, I just want to reiterate, but  
16 because it came up again, my comments earlier this  
17 morning is that the State's only going to be able  
18 to meet its goals if jurisdictions, and generators,  
19 and food recovery organizations have the ability to  
20 come together and figure out the resources and the  
21 capacity necessary to move this food. It's simply  
22 not going to move itself, certainly not in a food  
23 safe manner.

24           And so, I just strongly want to encourage  
25 the language we retained there. Thank you.

1 MR. BRADY: Thanks Andrew and Kelly. Just  
2 to your comment, it's a good comment and a good  
3 question. We're just going to have to take a  
4 closer look at it so --

5 MS. LARROWE: Hi, Kat Larrowe from the  
6 Alameda County Community Food Bank. Thank you for  
7 the opportunity to speak with you today.

8 Very in support of CalRecycle and this  
9 legislation, but the CFB letter, and we also  
10 submitted our own letter. And we just want to  
11 highlight some points, really, that get to food  
12 safety and our overall capacity.

13 And so, piggy-backing a little bit off of  
14 Andrew, but really strong support of separating  
15 edible food and recoverable food. I think we see  
16 this all the time in the field where a generator  
17 will have a donation for the day, but in theory  
18 that might be ready to eat that day, but three days  
19 later when our agency has distribution it's no  
20 longer edible. So, it's edible on the day that you  
21 might pick it up, but it's not technically  
22 recoverable because we can't actually distribute  
23 it. And then, that ends up putting the cost on our  
24 agencies, which Alex mentioned earlier 60 percent  
25 of them are all volunteer run. And so, many of

1 them are now having to pay more for compost, or  
2 other ways of disposing of the product. So, really  
3 looking for separation between those two  
4 definitions.

5 We're in very strong support of contracts,  
6 so thank you for having that in there. We think  
7 that that will help just provide insurance that if  
8 we're in a contract with a generator, no one else  
9 can swoop in and take over that relationship. And  
10 so, we appreciate that and hope that stays in.

11 And lastly, we are hoping that the  
12 reporting pieces for -- or, reporting and  
13 collecting pieces for food recovery organizations  
14 and food recovery services can be more defined.

15 So, the way we understand it is that if  
16 you're picking it up, you have to weigh and record  
17 in-transport and once it's collected. And so, as a  
18 food bank, we do a lot of the collection, but it  
19 goes to our member agencies versus a strictly  
20 transportation service for food recovery. So, we  
21 kind of do both and that would be very onerous for  
22 us to have to weigh for transport and for  
23 collection. So, hoping there could be some  
24 separation between specific transportation agencies  
25 and ones like food banks, who do kind of all of

1 those services. So, thank you for your time today.

2 MR. HILTON: Good morning. Rob Hilton,  
3 HF&H Consultants. I'm not speaking on behalf of  
4 any of my clients today. But we have been talking  
5 to a number of the communities that we serve and  
6 actually preparing some 1383 plans, including this  
7 food rescue component. And so, some of the things  
8 that we've come across in our planning may be  
9 helpful to you as you're working on this.

10 You've heard a couple of comments about  
11 the contracts required with the food rescue  
12 organizations. It's very much the case that some  
13 organizations that collect the material want those  
14 and some very much don't. And you should think  
15 about whether there are other forms of  
16 demonstrations. Sort of the point CAW made, we  
17 want the stuff to get rescued. We don't care about  
18 the arrangement, necessarily, by which it's being  
19 rescued.

20 And so, if there's some other  
21 demonstration that the business is donating and  
22 doing the thing, even if there isn't a formal  
23 contract setting out the terms of that, that may be  
24 helpful, or if there's some other arrangement  
25 demonstration that you'd be okay with.

1           One of the concerns that we've heard from  
2 franchise haulers, in negotiations, is that they  
3 believe this material is within the scope of their  
4 exclusive franchises, even though it's for human  
5 consumption. And I think we should clarify that  
6 because for nonprofits, that are not charging for  
7 their service, I think the Rancho Mirage decision  
8 gives us a clear pathway for that material to  
9 escape the franchise.

10           However, there are a number of services  
11 that are charging for the collection and we want to  
12 stimulate sustainable funding for these folks,  
13 right. So, we want folks to have an enterprise  
14 model where they charge.

15           If the franchisee believes that that's  
16 their material, we may not be able to allow others  
17 to charge. So, it would be great if the  
18 regulations could provide some clarity that this is  
19 not solid waste. It's not organic materials  
20 destined for compost. This isn't discarded. This  
21 is for a productive use. That would be helpful to  
22 us.

23           The biggest thing that we've noticed in  
24 looking at this is that these are regional  
25 programs. They span jurisdictions, they span

1 counties. And so, it's very challenging for a  
2 city, in a county, to manage everything you're  
3 asking them to do and there will be a lot  
4 duplication. Not in the capacity planning, but in  
5 the reporting about what the food recovery  
6 organizations are doing.

7 And so, the extent to which you can bring  
8 this up, maybe even to a State level, would really  
9 help. Because I think the duplication is going to  
10 be frustrating to the food service organizations  
11 that are responding to multiple agencies asking for  
12 the same stuff.

13 I really support including all of the  
14 stakeholders in the capacity planning. You've  
15 heard that today, so just me echoing that.

16 And then, I think you need to think about  
17 incompatible materials with donation, the same way  
18 we are with recycling and composting. There are  
19 materials that the food service organizations don't  
20 want. Unhealthy stuff, stuff that's, you know, at  
21 a certain age, whatever. And so, I think there  
22 needs to be some understanding of that in this  
23 language and some permission to do other things  
24 with that material. So, thank you.

25 MR. BRADY: Thanks, Rob. And on the

1 franchise issue, not to get into that today, but  
2 I'm assuming that was -- there was an explanation  
3 provided in your letter? Oh.

4 On the -- I just wanted to do a quick  
5 follow up on the franchise issue. Is that  
6 identified in your letter to some level of detail?

7 MR. HILTON: (Off-mic comments)

8 MR. BRADY: No, more just raising that  
9 it's a pretty complicated issue and it's something  
10 we will have to respond to in our rulemaking.

11 MR. HILTON: (Off-mic comments)

12 MR. BRADY: Are there any other comments  
13 or public testimony from folks in the room on this  
14 section?

15 Okay. A couple additional comments came  
16 in online. Larry Vaccaro, Waste Zero Manager with  
17 Athens, asking how will -- how will 20 percent  
18 success be known? In other words, how would we  
19 know that 100 percent edible -- what 100 percent  
20 edible originally was?

21 We have articulated that in the previous  
22 workshops, but that is something we will be doing a  
23 further study on moving forward. But again, I do  
24 want to reiterate that it's not a 20-percent target  
25 that each individual jurisdiction as to receive.



1           If there's no other comments or testimony  
2 on the edible food recovery requirements, there's a  
3 couple additional that came in on Article 3 that  
4 I'll read at this point. And then, we can break a  
5 little bit early.

6           So, an additional comment from Tracy Adams  
7 on Article 9. That's Tracy Adams with Green Waste  
8 Recovery. And that Article 9 is not called out in  
9 the agenda for the presentation today. But a focus  
10 on Section 18990.1(b)(5), which requires that a  
11 jurisdiction shall not implement or enforce an  
12 ordinance, policy, procedure, permit condition or  
13 initiative that includes revisions that do any of  
14 the following -- and he's specifically identify  
15 that they not enforce an ordinance that requires a  
16 generator fusing with waste collection, or  
17 combination of services that do not recover at  
18 least the same type of organic waste recovered by  
19 the service the generator previously had.

20           So, noting that comment, we do want to  
21 make sure that moving forward collection systems  
22 continue to grow and become more expansive and not  
23 less expansive. But do understand the issues that  
24 Tracy is raising in his letter, so we will provide  
25 some written responses to that and his comment will

1 be entered into the record.

2 We have Jim Ambroso, with the Resource  
3 Management Group, noting a definition of self-  
4 hauler. This definition limits self-haul activity  
5 to that which is performed by the generator only.  
6 Our concern is with the reference to back-hauls  
7 from plants to distribution centers or warehouses  
8 owned or operator by the generator.

9 From our experience, much of the back-haul  
10 activity taking place is done by other commercial  
11 haulers, not by the generator or the local  
12 franchise hauler.

13 A little bit more to the comment, but just  
14 paraphrasing for folks in the room here. We do  
15 have the comment in writing and we'll put that into  
16 the record.

17 Deidra Dingman with Contra Costa County  
18 has two comments. One on 18984.1(a)(3). The  
19 regulations exceed the scope of CalRecycle's  
20 rulemaking authority by mandating replacement of  
21 trash containers if not grey or black in color.  
22 the enabling statute applies to organic collection,  
23 which the regulation's required to be providing  
24 using a green container.

25 Aside from lack of statutory authority to

1 impose trash container collection requirements,  
2 there's minimal benefit that might be achieved by  
3 standardizing the color of trash receptacles.  
4 Unlike standardizing colors for containers instead  
5 to hold source-separated organizations. And that  
6 there's no justification for this.

7 We do provide justification in the initial  
8 statement of reasons, but certainly happy to  
9 respond to that question or comment in writing.

10 And then, the next comment from her is on  
11 189 -- 84.9(b)(1). As written the requirement that  
12 businesses place organic collection containers next  
13 to trash containers, provided for use by customers  
14 as it results in organic containers that will  
15 contain extensive contamination. This  
16 contamination could potentially compromise an  
17 operator's ability to effectively recover some of the  
18 organics loads that would be collected on his  
19 commercial organic routes.

20 Again, we will provide a written response  
21 on that. But I do -- we'll provide a written  
22 response on that.

23 Finally, one comment from Jennifer  
24 Gilbert, with the City of Davis. Can you please  
25 clarify other regulations planned to manage

1 landscape companies that haul yard trimmings away  
2 from your commercial and/or residential customers?  
3 Are they required to report to jurisdictions? How  
4 will a jurisdiction know about these self-haulers,  
5 many of which don't have business licenses, and  
6 operate under the radar, and how can we regulate  
7 this?

8           So, we have that comment and we'll provide  
9 a written response in the rulemaking record. There  
10 are a number of other comments that came in, that  
11 are quite extensive. So, just noting for those  
12 that are submitting quite lengthy comments online,  
13 those are being considered in the record. So, us  
14 not reading them out loud does not mean that  
15 they're not being considered.

16           So, with that we'll break. We are going  
17 to come back at 1:15 and on 1:15, we'll start the  
18 solid waste facility presentation. Thanks  
19 everyone.

20           (Off the record at 11:57 a.m.)

21           (On the record at 1:18 p.m.)

22           MR. BRADY: We're going to start the  
23 second half of the hearing and hand it over to Mark  
24 de Bie and Beatrice Poroli to present on the solid  
25 waste facility standards. This will go from 1:15

1 to 2:15, and then we'll move into presentations on  
2 procurement for an hour. And then, an hour on  
3 enforcement. And then, to the extent that there's  
4 additional comments or general public testimony  
5 that people would like to provide, we'll open it up  
6 to that as well, at that time, after the  
7 enforcement comments are done.

8 So, with that, I'm going to hand it over  
9 to Mark and Beatrice.

10 MS. POROLI: Thank you, Hank. Good  
11 afternoon. I'm Beatrice Poroli and I'll be talking  
12 about the changes to the solid waste facilities.  
13 I'll start with the transfer and processing  
14 regulations.

15 Operators that receive source-separated  
16 organic waste, SSO, will be required to implement a  
17 load-checking program to determine the presence of  
18 visible contamination. And it is performed at  
19 these frequencies.

20 The operator will be required to record  
21 and report loads of contamination. The mixed waste  
22 organic, MO, and SSO are required to be kept  
23 separate. This is because they have to meet  
24 certain standards. The MO has to meet the recovery  
25 efficiency standard of 50 percent by 2022 and 75

1 percent by 2025, in addition to meeting the  
2 incompatible material limit. The SSO only has to  
3 meet the incompatible material limit.

4           The methodology to determine the amount of  
5 organic waste is found in these sections for the  
6 transfer and processing facilities and these for  
7 the organic waste recovery activity, specifically  
8 for the composting and in vessel. The methodology  
9 is the same in all of these sections. Even though  
10 it is the same, but done for different reasons, and  
11 what you report is different.

12           Also, now they approve, with concurrence  
13 by the Department, alternatives. For the specific  
14 requirements, you can refer to these sections.

15           Sampling takes place after processing, but  
16 before it leaves the site. You take the sample,  
17 weigh it, remove the incompatible material, you  
18 reweigh it, and then you calculate the total tons  
19 of organic waste in that sample. The operator will  
20 do these steps for all of the waste types,  
21 including the residual waste.

22           This is the equation and the variables  
23 used in the equation to calculate the organic waste  
24 recovered, the incompatible material limit, and the  
25 amount of organic waste set for disposal.

1           The MO and SSO must be kept separate and  
2 the recordkeeping and reporting are also kept  
3 separate. The operator will record the daily  
4 totals and report quarterly sums of the organic  
5 waste set for recovery and disposal. The SSO has  
6 the same requirements.

7           The incompatible material limit  
8 establishes that organic waste set for recovery  
9 contain no more than 10 percent of incompatible  
10 material by weight. This tells you how clean the  
11 waste is.

12           Organic waste recovery activities are  
13 activities that divert organic waste from disposals  
14 to constitute a reduction in landfill disposal.  
15 These are examples of such activities. Organic  
16 waste recycling that meet the three-part test,  
17 composting and methyl digestion.

18           Incompatible material is used to determine  
19 where a facility can send their waste. The 90/10  
20 truck can send it to any of these facilities, where  
21 the 60/40 can only send it to a facility that will  
22 meet the additional quality standards. This means  
23 it must go to a recovery activity that disposes of  
24 residual with no more than 10 percent organic  
25 waste, such as a composting facility, organic

1 recycling center that meets the three-part test.

2 As mentioned in this morning's  
3 presentation on collections, we've added text  
4 defining consolidated sites. This was added to  
5 address facilities and operations that receive  
6 solid waste for the purpose of storing and do not  
7 conduct processing. The sites are not subject to  
8 the measurements or recordkeeping requirements.

9 If SSO is received, it must be kept  
10 separate from other solid waste. The waste shall  
11 be transported only to a transfer and processing  
12 facility, or operation that will comply with the  
13 organic waste recovery efficiency standards.

14 Remnant organic material is the organic  
15 material collected in a grey bin that's part of a  
16 three-bin collections system that prohibits the  
17 placement of organic waste in the grey container.  
18 This material is not subject to the measurement  
19 requirements, can be combined with other organic  
20 material removed from the SSO, after the SSO has  
21 gone through the measurement requirements.

22 The load-checking requirement is the same  
23 as for the SS's loads, but checking for the  
24 presence of visible remnant organic material.

25 I'll now go on to the proposed changes for



1 the composting and the methyl digestion regulation.  
2 Operators that receive -- oh, I'm sorry. Operators  
3 that will be required to implement a load-checking  
4 program to check for the visible contaminants,  
5 similar to the transfer and processing facilities.

6 The measurement protocol to determine the  
7 amount of organic waste in the residual is the same  
8 as what is performed at the transfer and processing  
9 facilities, except it's only done for the residual  
10 waste, not each waste type.

11 Recordkeeping and reporting is the same,  
12 except operators report monthly sums instead of  
13 quarterly.

14 As mentioned previously, additional  
15 quality standards include recovery activities that  
16 dispose of residual with no more than 10 percent  
17 organic content. This determines where a transfer  
18 and processing facility can send their waste. If  
19 the amount of organic waste residual is less than  
20 10 percent, then any facility can send their waste  
21 to this facility, even the facilities that failed  
22 to meet their incompatible limit. Remember the  
23 60/40 truck? It could go here.

24 If it has more than 10 percent, facilities  
25 that failed to meet their incompatible material

1 limit cannot send their waste here. That same  
2 60/40 truck could not send its waste to this  
3 facility. It would have to go to a facility that  
4 could meet the additional quality standards.

5 Changes to the LEA's responsibilities. At  
6 least once per quarter the LEA will oversee one  
7 sampling measurement. The operator shall conduct  
8 measurements in the presence of the LEA when  
9 requested. If the LEA determines the measurements  
10 are not accurately reflected in the record, they  
11 may require the operator to increase the  
12 measurement frequencies and/or revise the  
13 measurement protocol.

14 These regulations will amend the 901  
15 regulations that were approved on March 5th, 2019,  
16 to add the reporting requirements necessary for the  
17 tracking compliance with the recovery efficiencies  
18 and the incompatible limits of SB 1383.

19 The facility reporting requirements,  
20 mentioned earlier, are included in these sections  
21 and can be found on pages 75 through 9 of the draft  
22 regulatory text, and denoted by the double  
23 underline.

24 The next few slides will cover the changes  
25 to Title 27. One of the changes is the placement

1 of long-term intermediate cover on surfaces where  
2 no solid wastes will be placed within 30 days

3           The LEA may, with concurrence by the  
4 Department, approve an alternative.

5           Operators of new or expanding landfills  
6 shall implement an organic waste recovery activity,  
7 as specified in Article 2. An expansion would  
8 include a vertical or lateral increase. We've  
9 narrowed the definition to exclude the hours of  
10 operation to be considered as an expansion.

11           These are examples of some of the organic  
12 waste recovery activities that can be implemented.  
13 This can also include a separate receiving area  
14 that's used to store material that's to be sent off  
15 for further processing.

16           Operators that receive SSO will be  
17 required to implement the load-checking program to  
18 determine the presence of visible contamination.  
19 Unlike the transfer and processing operators,  
20 landfill operators will be required to perform at  
21 least one load check per month, of each hauler by  
22 source sector, and at least one load per quarter,  
23 per each service area.

24           An operator of a new or expanded solid  
25 waste facility shall provide evidence that the

1 public meeting was held with any affected  
2 communities -- affected groups or disadvantaged  
3 community. The information meeting that the LEA is  
4 currently required to hold, will be revised to  
5 include that the LEAs shall identify disadvantaged  
6 communities by meeting or exceeding the methods  
7 developed by CalEPA, and shall take measurements to  
8 increase public notice and encourage attendance by  
9 those communities.

10 The landfill operator will be required to  
11 prepare a status impact report, or a SIR, that will  
12 evaluate the potential impacts caused by the  
13 implementation of the organic disposal reduction  
14 requirements to be submitted to CalRecycle no later  
15 than 180 days from the effective date of these  
16 regulations. More information on the submittal  
17 requirements and timelines are in the specific  
18 sections.

19 The last item I'm going to cover is  
20 biosolids generated at a POTW, which is in Article  
21 6, Chapter 12.

22 Biosolids generated at a POTW are not  
23 subject to the Article 3 requirements, which are  
24 the organic waste collection service that was  
25 discussed this morning, or the measurement and

1 recordkeeping reporting requirements that I  
2 mentioned earlier.

3 Now, waste sent to a POTW that is not  
4 approved, as specified in the exclusion, will be  
5 considered landfill disposal.

6 Biosolids generated at POTW can only go to  
7 additional processing or other recovery activities  
8 specified in Article 2.

9 Sewage sludge and biosolids that cannot be  
10 further processed or recovered can be sent for  
11 disposal. An example of this would be if the POTW  
12 has an operational incident that results in not  
13 being able to process the sewage sludge, or the  
14 biosolids to meet the standards or the  
15 requirements, then it may be disposed.

16 Now, we'll open it up for comments.

17 MR. BRADY: For folks in the room, if we  
18 could, please line up to provide testimony. And  
19 can we get a show of hands for folks that want to  
20 provide testimony on this section? Okay, so it  
21 looks like we've got a good amount of time to take  
22 comments. So, not going to limit it to two  
23 minutes, but if we start running out of time, we  
24 may start doing that.

25 Just a reminder that we do have a court

1 reporter here, so if you can please identify your  
2 name and any relevant affiliation, and make sure  
3 you're speaking into the microphone. And if you  
4 have a business card, if you haven't already  
5 provided that, that would be very helpful. Thank  
6 you.

7 MR. BOONE: As you know, I've been  
8 involved in a lawsuit about the --

9 MR. BRADY: Sorry, Art, can you state your  
10 name?

11 MR. BOONE: Arthur Boone, Center for  
12 Recycling Research. I've been involved in a  
13 lawsuit regarding a mixed waste processing facility  
14 being erected in San Leandro, California.

15 The proposer said that they would get up  
16 to 61 percent diversion at this facility. They  
17 said that they didn't see exactly how this would  
18 all be related to their proposal. The remnant  
19 organic materials suggests as much as I understand  
20 it, that there will be organic materials which will  
21 be included in the material that will be carried  
22 over to the transfer station. And then, there will  
23 be organic materials that will be fed into the  
24 composting operation on the property or  
25 trans/shipped outward for composting.

1           So, presumably, they should be keeping  
2 records of how much organics is not being captured  
3 in the separation system, so that what we know that  
4 goes to the transfer station is in fact a low-end  
5 organics. That's my understanding of what you're  
6 saying, but I'm not sure I got that right. So, I  
7 just want to make sure that I know what that means.  
8 Thank you.

9           MR. BRADY: Without going into detail on  
10 this section, there is a recordkeeping requirement  
11 relative to the remnant organics.

12           MS. PARDO: Hi, Veronica Pardo, California  
13 Refuse Recycling Council, Northern District, again.

14           We submitted several comments in regards  
15 to the measurement protocol. I'm sorry, I won't  
16 reiterate, except for two important points. We  
17 interpret the source-separated organic waste to  
18 mean the material that is in the green or yellow  
19 container, as described, not the material that you  
20 would find in the blue container.

21           And your images showed a very beautiful  
22 picture of green and food waste, as demonstrated  
23 for the source-separated organic waste. So, that  
24 is our interpretation that the protocol, this isn't  
25 in regards to mixed organics, but the source of

1 greater organic waste would be for that green or  
2 yellow container in those cases.

3           And I'd also like to point out that onsite  
4 transfer of material -- this kind of goes back to  
5 some of the conversation we had with AB 901.

6 You're going to have facilities that are going to  
7 be receiving source-separated organic wastes at a  
8 transfer processing facility that might have an  
9 anerobic digestion facility onsite. So, the  
10 expectation would be that you're not going to be  
11 sampling and measuring the material that you're  
12 sending to yourself.

13           So, we'd ask that that material not be  
14 subject to the measurement protocols if they're  
15 keeping that material onsite. Thank you.

16           MS. GREEN: Hi, again. I'm Sharon Green  
17 with the Sanitation Districts of Los Angeles  
18 County. And I have several comments on this  
19 article and these sections of the regulations.

20           Just for context, I just wanted to provide  
21 a little bit of background because we provide both  
22 wastewater treatment services and also operate a  
23 variety of solid waste facilities, where both the  
24 biosolids generator, as well as own and operate  
25 composting facilities, have a food waste recycling



1 program, have materials recovery and transfer  
2 facilities, and also solid waste landfills. So, we  
3 have kind of a whole range from generator all the  
4 way to disposal, and pretty much everything in  
5 between.

6 So, our staff, in a variety of different  
7 departments actually have -- and at various types  
8 of facilities have reviewed these regulations and  
9 wanted to make three main comments.

10 So, in a couple of different places in the  
11 Article 6, in Title 14 regulations it appears when  
12 you are defining what are allowed management  
13 methods, that you're saying -- like, for instance,  
14 with the biosolids, they may only go to these types  
15 of things. And it's kind of the word only that  
16 makes it seem like it's a kind of implicit ban on  
17 landfilling. And then, there's the exception and  
18 you pointed this out in your presentation.

19 Our concern, though, is that there may be  
20 other circumstances that may necessitate a need to  
21 send material for disposal, whether it's from a  
22 MRF, organic material received there, or from -- or  
23 our biosolids. There could be things that aren't  
24 strictly meeting those conditions that you  
25 mentioned, such as new regulatory standards that

1 come into being, that we can't meet and we have to  
2 -- it may take us time to be able to. So, that's  
3 one example.

4 And then, another area we wanted to just  
5 highlight is about the load-checking requirements.  
6 And while we understand the desire to minimize the  
7 contamination and collect a lot of detailed data,  
8 it seems like some of the requirements are overly  
9 onerous and will significantly impact our  
10 facility's ability to operate.

11 So, we do appreciate the ability for the  
12 enforcement agency to approve alternative  
13 measurement protocols, but we also think there are  
14 some changes to the regulations themselves that  
15 would be helpful.

16 And, so there's -- for instance, there are  
17 certain instances where load-checking would be  
18 pretty impossible, like preprocessed organic waste  
19 or where you have a very consistent waste stream it  
20 may not really be warranted.

21 And then, also, there's often space  
22 constraints in some of our facilities and it would  
23 be difficult to do multiple daily load-checks.

24 And then, the last issue we wanted to  
25 comment on is that the requirement for the long-

1 term intermediate cover, for the 36 inches of  
2 cover, seems excessive to us. We don't think it's  
3 necessary. We think that the existing  
4 requirements, you know, to prevent emissions, as  
5 well as to maintain the cover requirements to  
6 prevent nuisance and so forth are already well-  
7 defined and are sufficient. And so, we would like  
8 to see those changed.

9 We do appreciate that there is that  
10 ability for the enforcement agency to approve an  
11 alternative, but there's kind of no indication of  
12 what would be the criteria for doing that. And so,  
13 that's -- you know, it doesn't give us a lot of  
14 comfort because we don't really know how that will  
15 be decided. Thank you.

16 MR. BRADY: Thanks. And thanks for the  
17 comments. And just on the biosolids issue, that is  
18 one that we've seen in a number of letters and  
19 potentially want to follow up and work with you on  
20 that.

21 MR. POTASHNER: Thank you. Eric  
22 Potashner, with Recology. To echo the LA  
23 Sanitation District's concern around the load-  
24 checking, Recology operates a number of compost and  
25 transfer stations throughout the State. And our

1 waste stream is pretty consistent. It's the same  
2 local jurisdictional programs. Some large  
3 distribution centers around grocery are coming into  
4 our facilities. That feedstock is consistent from  
5 day to day.

6 The frequency that these regulations  
7 require us to do the load-checking is something  
8 that we'd ask gets revisited. We believe something  
9 along the lines of a weekly load check for our  
10 waste stream would probably still get you the data  
11 that you need and make sure that the facilities are  
12 complying with the spirit of this regulation.  
13 Thank you.

14 MS. FOSTER: Colleen Foster, City of  
15 Oceanside. I also want to support the comments  
16 made by LA SAN in regards to load-checking and  
17 biosolids management.

18 I want to reiterate the fact that for  
19 biosolids management, we'd like it to not be  
20 limited to anerobic digestion or composting. We  
21 really want CalRecycle to incorporate language that  
22 allows us to consider other technologies and future  
23 technologies that would result in diversion from  
24 landfills.

25 I have a -- maybe it's a question/a

1 comment. And this is not in our letter. The  
2 caveat you state about you require a landfill, if  
3 there is an expansion, that they would need to  
4 incorporate organic recovery into their facility,  
5 if I'm reading that slide correctly. But you don't  
6 qualify an expansion as being hours. So, if a  
7 landfill was to expand their number of hours for  
8 accessibility, wouldn't that qualify as additional  
9 access to land-filling?

10 MR. DE BIE: So, the regulations do  
11 exclude increasing hours. There is a definition of  
12 what is an expansion relative to permit  
13 requirements, so we wanted to clarify that the use  
14 of expansion in this context didn't include hours.  
15 So, it's lateral or vertical expansion.

16 MS. FOSTER: Then, I guess our comment  
17 would be would CalRecycle consider allowing hours  
18 to be considered, if it was an expansion of hours  
19 to those facilities?

20 So, if a facility expanded their hours of  
21 operation, then I think that would call to question  
22 whether they're opening access to landfilling, and  
23 I'd like to see that facility to develop organic  
24 recovery systems, instead of increased access to  
25 landfilling. Thanks.

1 MS. STEIN: Antoinette Stein,  
2 Environmental Health Trust, PhD in environmental  
3 engineering, air quality control.

4 Section 17409.5.6, source-separated  
5 organic waste handling. I think this section,  
6 someone else, you read it from the email, Hank.  
7 Source-separated organic waste processing shall be  
8 kept separate from other solid waste streams.

9 It's in there. It's just then you follow  
10 it up with all these other, you know, one, remnant  
11 organic material separated from the grey container  
12 collection can be combined with organic material  
13 removed from the source-separated organic  
14 collection.

15 You go on. They aren't compatible. You  
16 can't do both. Either/or, one or the other. And  
17 if you say that it needs to be separate and we  
18 collected it in the green bin separate for the  
19 intention of creating what we defined as compost.  
20 But then, you're allowing it to be contaminated  
21 with other material right in the regulations. I  
22 don't understand it. And I do understand it and I  
23 want it to be struck.

24 For example, B, source-separated organic  
25 waste and waste removed from a mixed waste organic

1 collection service for recovery shall be stored  
2 away from activity areas specified, and  
3 identifiable areas as described in the facility  
4 plant transfer report.

5 And then, we're back to, you know, the  
6 local, the LEA approving things.

7 It just -- why not keep the two things  
8 separate? You have source-separated green bin  
9 material. It needs to be kept separate and aside  
10 from the mixed waste matter, organics.

11 You're wanting them both to be processed,  
12 but why are you mixing one with the other? It's  
13 not working. And we're doing our best to separate  
14 it and I think you're contaminating this whole  
15 process of 1383, thinking that you're just going to  
16 get energy out of it. Energy reductions from the  
17 methane. But you're making a mess out of it all.  
18 So, please don't do it.

19 MR. EDGAR: Evan Edgar, Edgar Associates.  
20 Just do it. If we can get a three-cart system to  
21 get to 50 percent and some operations at mixed  
22 waste process facilities can have a source  
23 separation line that gets to 50 percent, then  
24 without backing away from source separation, the  
25 same facility could add a mixed waste processing

1 for multi-family and for commercial waste. So,  
2 some facilities can have a dual system whereby you  
3 have source separation to get to 50 percent, keep  
4 doing that as much as possible. And to get to 75  
5 percent, you may have to squeeze the garbage and  
6 within the same facilities.

7 I think your regulation says there's two  
8 separate tipping pads, two different ways to test  
9 for it. So, there is a way to keep them  
10 separation, store separation from mixed waste  
11 processing at the same facility. And I believe  
12 your regulations separate them and they have  
13 different types of waste characterization for each  
14 type operation when it's commingled at the same  
15 facility.

16 But I came up here for another reason. I  
17 was just rebutting Dr. Teri (sic) Stein.

18 MR. BRADY: If I could, just for  
19 clarification, since it's come up with two  
20 different comments, it is our intent that the SSO  
21 material at a facility be kept separate from mixed  
22 waste material.

23 However, what's being read on the remnant  
24 organic waste material, it's not our intent that  
25 the remnant organic waste material can simply be



1 combined with the SSO material. It could be  
2 combined with the organics that are removed from  
3 the remnant is our intent. And understand that may  
4 still be a concern, but I just want to make sure  
5 that that was clarified, as our intent was not to  
6 mix the two together as they come in.

7           However, with the traditional mixed waste  
8 processing, as defined in these regulations, and  
9 then the SSO, typically they are kept separate all  
10 the way through. There's an exception for remnant  
11 organic waste material. And just providing that  
12 clarification. I'm not saying that that doesn't  
13 mean there's potentially opposition. I just want  
14 to make sure that part's clear.

15           MR. EDGAR: Thank you. Evan Edgard, Edgar  
16 Associates. On one of the slides on post-  
17 processing, under organic waste recovery  
18 activities, you have a new terminology that's not  
19 defined. They're called organics recycling center.  
20 As part of Beatrice's presentation, you talk about  
21 a recycling center has to pass a three-part test,  
22 which is ten percent residual and one percent for  
23 putrescible.

24           So, I'm trying to get my mind wrapped  
25 around as to what exactly is a recycling center,

1 given the fact that it's mostly for putrescible  
2 food waste and organics. So, I think that if you  
3 have an organics recycling center, I don't think it  
4 can pass the three-part test. It's impossible.  
5 So, can you give some examples of what you're  
6 thinking about on an organic recycling center?

7 MR. DE BIE: A site that's handling paper  
8 or cardboard.

9 MR. EDGAR: Paper products. Okay. Well,  
10 I was thinking food wastes and greens. Is there an  
11 example of that where this would apply for food  
12 wastes, given the one percent per putrescible?  
13 Thank you.

14 MR. BOONE: In 2008, the County of Alameda  
15 and in all landfills in Alameda County, the  
16 disposal of yard debris. And I would assume that  
17 the requirement or the allowance of biomass as a  
18 destination for separated organics does not  
19 preclude local action. There's no preemption on  
20 the State's part to requiring that or allowing that  
21 access. I would see an organizing factor in  
22 Alameda County, basically, to ban the disposal of  
23 any organic material in a landfill. And I just  
24 wondered if there's anything in this that would  
25 preclude local action on that. Thank you.

1 MR. BRADY: Sorry, can I ask a clarifying  
2 question? So, the ordinance prohibits biomass  
3 conversation, is that -- okay.

4 Under Article 9 of the proposed  
5 regulations, a city or county is prohibited from  
6 enforcing an ordinance that would prohibit a  
7 recycling activity from being utilized. In these  
8 regulations, biomass conversion is considered a  
9 recycling activity. So, that would not be -- we  
10 would take issue with that under our regulations if  
11 the result is that the material is prevented from  
12 going to biomass, and then is potentially going to  
13 disposal that results in material being disposed  
14 and not recovered.

15 MR. BOONE: (Off-mic comment)

16 MR. BRADY: Art, for the online  
17 participants and for the court reporter can you --

18 MR. BOONE: The local government cannot  
19 ban the access, using biomass as a suitable  
20 placement point for this organic material. You're  
21 saying that?

22 MR. BRADY: Correct. Within Article 9,  
23 local governments are prohibited from restricting  
24 access to the organic waste recycling, as defined  
25 in these regulations.

1 MR. BOONE: You're not allowing us --  
2 you're not allowing the county to restrict access  
3 to biomass facilities, is that what you're saying?

4 MR. BRADY: Not allowed to restrict access  
5 to biomass conversion.

6 MR. BOONE: Okay, exactly.

7 MR. BRADY: Additional testimony in the  
8 room? Otherwise, I'm going to look over to see if  
9 there's any comments online.

10 MR. VAZIFDAR: Kawsar Vazifdar, from Los  
11 Angeles County Public Works. Who is responsible  
12 for monitoring and enforcing solid waste  
13 facilities' compliance with the SB 1383  
14 regulations? It will be the responsibility of  
15 local jurisdictions' LEAs or of the State.

16 MR. DE BIE: This is Mark de Bie with  
17 CalRecycle. The LEA would retain the full  
18 responsibility to ensure compliance with all of the  
19 facility-related requirements that Bea went through  
20 for the facilities via transfer station compost and  
21 aerobic digestion landfill.

22 Some of those do require the facility  
23 operators to participate in recordkeeping and  
24 reporting, so that would be within the suite of the  
25 LEA's jurisdiction.

1 MR. BRADY: All right. And one more,  
2 Jeffrey Mills from L&D Landfill. L&D Landfill runs  
3 a privately held C&D landfill. As such, 1383 has  
4 little impact on our waste streams as we are  
5 specifically prohibited from accepting putrescible  
6 waste. However, the long-term intermediate cover  
7 requirements do not differentiate us from  
8 facilities that take a higher percentage of organic  
9 material.

10 We would urge CalRecycle to reconsider the  
11 requirement for 36 inches of compacted as long-term  
12 and intermediate cover at a C&D landfill. The  
13 current requirement for 12 inches of compacted  
14 soil, in conjunction with AB 32 mandated surface  
15 emission testing, provides sufficient methane  
16 control and attendant monitoring based on our waste  
17 stream, which is largely nonorganic.

18 The addition of a further 24 inches of  
19 compacted soil is a needless expense that offers  
20 little to no additional control of methane  
21 emissions. Further, the application of this  
22 material, which will also need to be removed later,  
23 prior to application of further waste or final  
24 cover requires the use of heavy construction  
25 equipment, with its attendant pollution impacts.

1 MR. BRADY: Thanks for your comment.  
2 We'll provide a response and consider that in the  
3 record.

4 MR. DE BIE: If I could -- sorry, Mark de  
5 Bie, again. I think the commenter indicated C&D  
6 landfills. There is a unique type of landfill that  
7 is defined as C&D disposal. And in those  
8 requirements, it indicated what aspects of  
9 municipal solid waste land filling requirements,  
10 that type of facility is required to comply with,  
11 and it's not the full suite.

12 So, I thank the commenter for the comment.  
13 You need to look at that interplay between C&D  
14 landfills and MSW landfills relative to this cover  
15 requirement.

16 MR. BRADY: Is there anymore testimony on  
17 this aspect of the regulation, in the room?

18 MR. BOONE: Just Arthur Boone, again.  
19 It's conceivable that in Alameda County we are  
20 beginning to challenge the question of the methane  
21 capture rate at the landfill. The climate change  
22 document that the CARB approved some time ago says  
23 it's a -- took the industry standard of 75 percent.

24 There is no, to my knowledge, there is no  
25 hard and fast, or good science on the question of

1 how much methane is actually captured at a  
2 landfill.

3           Okay. There is some science that says  
4 that all of the organic materials which are  
5 deposited in landfills are gone -- are demethanized  
6 within six weeks of deposition. And so, they're  
7 methane never is approached by the gas capture  
8 system.

9           If that is true, then it's extremely  
10 important to keep that material out of the  
11 landfill. And I want to make sure that the kind of  
12 information that you're going to have is going to  
13 be able for us to say we are confident that the  
14 State's procedures keep all of those readily  
15 methanizable -- whatever you call it --  
16 demethanized materials out of the landfill. That's  
17 been the issue in Europe for 20 years and we don't  
18 want to see it happen here. Thank you, over.

19           MR. BRADY: Sure. Just to provide some  
20 quick clarification on the statutory structure of  
21 1383. I think we're actually, generally in  
22 agreement with the concern that you shared of not  
23 wanting to overstate the methane capture in  
24 landfills. But with the structure of 1383, it's  
25 really not an issue in a lot of ways because the

1 statute tells us get organics out of landfills,  
2 based on how many tons were disposed of in 2014.  
3 So, we have heard from operators that they capture  
4 99.999 percent of the methane. And others that  
5 they capture a zero percent of the methane.

6 That argument, relative to this  
7 rulemaking, is essentially irrelevant that the  
8 organic waste has to be out of the landfill. So,  
9 which I think is the direction you're looking to  
10 go, but just wanted to provide that clarification.

11 MR. BOONE: One point, again. I was  
12 talking to a wastewater treatment plant operator,  
13 recently, and I asked him how much of the methane  
14 that's made at the wastewater treatment plan do you  
15 capture? He looked at me kind of straight in the  
16 face and said hundred percent. I don't believe  
17 anything runs at a hundred percent. And so, I  
18 think -- but I think we need to know, we need to  
19 learn all this. Thank you, over.

20 MS. STEIN: Antoinette Stein,  
21 Environmental Health Trust. Okay, I want to just  
22 follow up on what you were just talking about. On  
23 page 9 of AB6, Article 2, you have the  
24 determination of technologies that constitute  
25 reduction in landfill, and you give a number of .30



1 million tons -- tell me what's the unit on that?

2 Anyone know?

3 MR. BRADY: That's M2CO2E, it's metric  
4 tons of CO2 equivalent.

5 MS. STEIN: Metric tons, sorry about that.  
6 So, you have that number. You worked with CARB,  
7 probably, to get that number from established,  
8 published peer-reviewed research.

9 My question is, or it's not really a  
10 question, it's a comment. The digestate that's  
11 coming out of the AD facilities, do we think that  
12 it's going to meet that and, you know, on an  
13 absolute basis? Because I think that there's some  
14 variability when you pull it out and, you know,  
15 that's a decision being made by the operator.

16 It would be good to -- I've been promoting  
17 that it be matured and stabilized to get to that  
18 level and be below, but it's unclear. So, could we  
19 put a metric on the AD digestate design criteria  
20 for opening and moving the material to -- if you're  
21 going to move it out to the landfill to mature it,  
22 it's going to be a drive. And so, that's my  
23 concern is can you put some metrics on where the AD  
24 material should be?

25 Because it's going to be emitting methane

1 when you get it out, if you don't completely stop  
2 the process. So, that's it.

3 MR. BRADY: Thank you. Are there any  
4 other comments on this section? Otherwise, we will  
5 move on to the presentation on procurement.

6 Okay, seeing none, Michelle and Scott can  
7 come up. We're going to move on and start the  
8 presentation on the procurement requirements in SB  
9 1383.

10 MS. SLOCOMBE: Hello. Good afternoon. My  
11 name is Michelle Slocombe. And this is my  
12 colleague, Scott Beckner, and we'll be presenting  
13 on procurement of recovered organic waste products  
14 today.

15 So, as you've heard, organic waste  
16 comprises approximately two-thirds of California's  
17 waste stream. And California needs to build  
18 approximately 50 to 100 new or expanded processing  
19 facilities to handle the diversion of organics  
20 required by 2025.

21 But what happens to the products coming  
22 out of those facilities, daily market and buyers.  
23 the procurement requirements are designed to help  
24 build those markets.

25 Today, I'll be discussing requirements on

1 jurisdiction to procure recovered organic waste  
2 products, as well as recycled content paper.  
3 Please note those are two, distinct procurement  
4 requirements.

5           The purpose for the procurement  
6 requirement is to help grow markets for organic  
7 waste products, as mentioned. And as we've seen  
8 with China's National Sword, collection can only go  
9 so far. 1383 cannot be successful unless there are  
10 sustainable markets for end products.

11           This essentially closes the loop on  
12 recovering and using organic waste. As you'll see  
13 in this loop here, on the right, it doesn't just  
14 end at procurement. There's another stage, the  
15 end-use phase which is vital, because that's where  
16 many of the environmental benefits are realized.

17           So, these procurement requirements are for  
18 jurisdictions, for cities and counties, and it's an  
19 opportunity for all of us to live and work in a  
20 jurisdiction to part of the solution for closing  
21 that loop.

22           I want to highlight, quickly, some changes  
23 from the May 2018 informal draft, before I get into  
24 the details of the procurement requirement.

25           So, the first one is we replaced the

1 jurisdiction employee-based procurement targets  
2 with a population-based equation. The intent has  
3 always been to have the procurement target be  
4 proportional to their slice of the jurisdiction.  
5 But we heard from many stakeholders that the  
6 previous draft employee metrics did not accurately  
7 account for the many ways that cities and counties  
8 organized their staff, or contract out for  
9 services. So, that's why we made that change.

10           Number two here, we also clarified, in  
11 response to stakeholder comment, that jurisdictions  
12 that procure transportation fuel from a publicly-  
13 owned treatment works, or POTW, that they must have  
14 that POTW certify the tons of landfill-diverted,  
15 organic waste that's been processed into renewable  
16 gas.

17           So, now, I'll talk about the first part of  
18 the procurement requirement, which is recovered  
19 organic waste products. It's defined in Article 1  
20 as products made from California landfill-diverted  
21 recycled organic waste, processed in a permanent or  
22 otherwise authorized facility. And that just means  
23 that we can verify the organics diverted and that  
24 all products must be made from in-state, recovered  
25 organic waste.

1           The graphic that you see here shows the  
2 jurisdiction's procurement target on the left,  
3 which CalRecycle will assign based on population.  
4 The intent is to establish a method for local  
5 governments to procure their proportional share of  
6 recovered organic waste products. And based on  
7 that procurement target, a jurisdiction then has  
8 the flexibility to choose recovered organic waste  
9 products to procure in order to fulfill that  
10 target, and that's what you see here on the right  
11 side.

12           The recovered organic waste products are  
13 compost and/or renewable transportation fuel, as  
14 defined in Article 1. The guidance and selection  
15 for these two products was largely driven by  
16 recommendations in the Air Resources Board's Short-  
17 lived Climate Pollutant Strategy, and then  
18 reaffirmed by the California Energy Commission's  
19 Integrated Energy Policy Report, which statute  
20 directed us to look towards.

21           So, as you can see here on the right, this  
22 graphic shows that a jurisdiction has the  
23 flexibility to procure these products to fit their  
24 local needs. So, for example, a jurisdiction can  
25 procure 100 percent renewable transportation fuel,

1 100 percent compost, or any sort of combination  
2 therein according, again, to their local needs.

3           So, how will their procurement target work  
4 in practice? The equation on the left shows that  
5 CalRecycle will calculate each jurisdiction's  
6 procurement target based on population, multiplied  
7 by a .07 per capita procurement target, and that  
8 number does not change. So, then, that will equal  
9 a jurisdiction's procurement target.

10           The equation on the right shows that a  
11 jurisdiction, again, has the flexibility to choose  
12 their products and they will apply a conversion  
13 factor for fuel or compost to its procurement  
14 target to obtain the amount of finished product.  
15 And again, just a graphic to highlight that.

16           Here's an example for the City of Los  
17 Angeles. About 4 million residents multiplied by  
18 .07 equals their procurement target of 271,689 tons  
19 of raw organic waste. So, the units there are raw  
20 feedstock.

21           If the city decides to procure 100 percent  
22 RNG, a renewable transportation fuel, that would  
23 equal about 5.1 million diesel gallon equivalent.  
24 So, the procurement target times the conversion  
25 factor, 19 diesel gallon equivalents. You can see

1 it down there at the bottom green box.

2 And just to go through the rest of the  
3 examples, the city can also choose a 50-percent  
4 fuel, 50-percent compost. You can see the numbers  
5 there, it's just applying the conversion factors.  
6 Or, 100 percent compost, which would equal about  
7 157,000 tons.

8 The conversion factors we see in the  
9 bottom green box are based on Air Resources Board  
10 quantification method. And CalRecycle will provide  
11 a calculator for jurisdictions to use for those  
12 conversions.

13 So, in order to provide more flexibility  
14 to jurisdictions, they can meet their procurement  
15 target through either direct procurement or through  
16 a direct service provider. For example, a hauler  
17 or a contract that has signed a direct contract  
18 with the jurisdiction and that procures products on  
19 behalf of that jurisdiction.

20 I also want to call out the procurement  
21 does not necessarily mean purchased. A  
22 jurisdiction that produces its own compost or  
23 renewable transportation fuel can use that towards  
24 the procurement target. And the same goes for the  
25 jurisdiction's direct service providers. For

1 example, their haulers.

2 Lastly, this is a paper transaction,  
3 meaning that a jurisdiction is not required to  
4 procure end products from organic feed stock  
5 collected within their jurisdiction.

6 A jurisdiction can procure from anywhere  
7 in the State to meet their procurement target  
8 provided, the end products fit the definition of  
9 recovered organic waste products. For example,  
10 California landfill-diverted organic waste.

11 So, the point of this slide is to show  
12 several examples of how jurisdictions can use these  
13 end products to meet their goals, to meet their  
14 procurement target goals. Again, these are  
15 examples only. They're not limited to these  
16 particular ones.

17 On the compost side, a jurisdiction has  
18 options to use compost for more obvious things like  
19 city parks, center divides, community school  
20 gardens, erosion control along roadways. Or,  
21 perhaps, some less obvious examples such as the  
22 city-hosted compost giveaway.

23 On the renewable transportation fuel side,  
24 a jurisdiction can use the fuel to fuel their city-  
25 owned vehicles. Or, their waste hauler could use



1 the fuel to fuel their trucks, or their city buses,  
2 or any other city fleet.

3 So, as mentioned previously, the guidance  
4 and selection of these two products are based on  
5 the Short-lived Climate pollutant, as well as the  
6 CEC's, or the Energy Commission's Integrated Energy  
7 Policy Report, which statute directed us to look  
8 toward.

9 There is a mechanism built into the  
10 regulation, where the target can be lowered if the  
11 jurisdiction does not have a need for that product  
12 based on the previous year's procurement of fuel.

13 The intent is not to force jurisdictions  
14 to buy more than they need.

15 This is a similar-looking timeline to what  
16 you saw earlier this morning. And the intent here  
17 is just to share that the procurement enforcement  
18 will begin, along with the rest of the regulations,  
19 in 2022.

20 Some other things specific to procurement  
21 are jurisdictions will be informed of their target  
22 on our website, as well as through written  
23 notification. And the procurement target formula  
24 will be updated every five years to account for  
25 changes in population.

1           Recordkeeping consists of jurisdictions  
2 will be required to maintain the following records.  
3 For example, a description for complying with the  
4 procurement requirements, some specific details on  
5 the entities from which the products were procured,  
6 invoices or similar records of procurement, as well  
7 as POTW certification.

8           So, now, I'm getting into the recycled  
9 content paper procurement requirements which,  
10 again, is a separate requirement from the organic  
11 waste products and does not factor into the  
12 procurement target that I just spoke about.

13           As you can see here, 75 percent of paper  
14 purchases must contain 30 percent post-consumer  
15 recycled content. These requirements mirror the  
16 State Agency Buy Recycled Campaign, or SABRC.  
17 Requirements which State agencies are already  
18 required to meet.

19           Paper purchases means purchases of paper  
20 products and printing and writing paper. And you  
21 can find those definitions called out in Article 1.  
22 And defined within those categories are a wide  
23 range of products, including paper janitorial  
24 supplies, cartons, packaging, file folders,  
25 envelopes and numerous types of writing paper.

1 Paper products must also be recyclable,  
2 designed by the Federal Trade Commission's Green  
3 Guide. And jurisdictions must require vendors to  
4 provide certification so that CalRecycle can verify  
5 purchases meet those requirements.

6 Lastly, jurisdictions are required to keep  
7 invoices, receipts, and certifications for recycled  
8 content paper in order for CalRecycle to verify  
9 compliance.

10 And that concludes my presentation. I'll  
11 turn it back to Hank.

12 MR. BRADY: Great. Any folks who want to  
13 provide testimony on this portion, we're doing okay  
14 on time so --

15 MS. LEVIN: Good afternoon. Julia Levin  
16 with the Bioenergy Association of California.  
17 Thank you.

18 We just want to touch on one thing, which  
19 is the limitation of the use of renewable gas to  
20 vehicle fuel. And we've discussed this with a  
21 number of CalRecycle staff offline, and were told  
22 that there were two reasons. And actually,  
23 Michelle, you just provided a third reason. I'm  
24 going to start with yours.

25 I just looked back at SB 1383, Health and

1 Safety Code 39730.6. And nowhere in that section  
2 of code dealing with diverted organic waste does it  
3 mention the 2017 IEPR. That's in a different  
4 section of the bill about creating recommendations  
5 more generally for renewable gas. But it is not in  
6 the section about diverted organic waste. So,  
7 that's simply not accurate.

8           Having said that, I looked back at the  
9 IEPR section on renewable gas that was required by  
10 another part of SB 1383. And this is what it says  
11 on electricity.

12           Generating electricity using in-state  
13 renewable gas assists with meeting the State's  
14 waste stream reduction requirements, brings  
15 environmental and public health benefits, and  
16 reduces short-lived climate pollutants.

17           Nothing in the 2017 IEPR expresses an  
18 environmental or carbon preference for  
19 transportation fuel over electricity, pipeline  
20 injection, combined heat and power, industrial  
21 uses, renewable hydrogen. In fact, the 2017 IEPR  
22 talks at length about all the benefits of using  
23 renewable gas for hydrogen and for pipeline  
24 injection.

25           It does not recommend limiting the use of

1 renewable gas to vehicle fuel. It does comment  
2 that LCF credits are more valuable right now than  
3 RPS credits. But that, by itself, is not a reason  
4 to exclude other end uses of renewable gas.

5 We strongly support the use of diverted  
6 organic waste to reduce low carbon and carbon  
7 negative vehicle fuels, but don't see any  
8 justification in law or science to limit it to that  
9 end use.

10 We also noted in our written comments that  
11 the California Council on Science and Technology,  
12 which was established by the Legislature to guide  
13 State agencies and the Legislature on scientific  
14 and technical questions. So, there is no net  
15 carbon benefit of using renewable gas for  
16 transportation fuel over other end uses.

17 And finally, most importantly, the Short-  
18 lived Climate Pollutant Strategy, which should be  
19 the most important document in Short-lived Climate  
20 Pollutant regulations, strongly urges agencies to  
21 use renewable gas for electricity, pipeline  
22 injection, combined heat and power, and a wide  
23 variety of end uses.

24 This is going to depend a lot on location.  
25 You know, if a wastewater facility already has

1 electricity generation on site and can take in more  
2 diverted organic waste, and produce more biogas to  
3 produce more renewable power, why would you require  
4 them to spend millions of dollars on additional  
5 equipment to go, instead, to vehicle fuel? It just  
6 doesn't make sense. And there is truly no legal or  
7 scientific basis for it. This would be the epitome  
8 of an arbitrary limitation.

9 I think I'm going to leave it at that for  
10 now. Thank you.

11 MS. SCHOONMAKER: Kelly Schoonmaker,  
12 StopWaste. I work on compost and mulch market  
13 development, and I'm also a landscape architect, so  
14 that's where this part of my comments are coming  
15 from. And I'll try to keep it short, but I really  
16 like -- this is my favorite section of the regs, so  
17 okay.

18 (Laughter)

19 MS. SCHOONMAKER: I want to kind of echo  
20 what I've heard before. I think that this section,  
21 you need to open it up to more types of products  
22 and more pathways to compliance.

23 So, for products that would be things like  
24 mulch, biochar, electricity as was just mentioned,  
25 renewable diesel that's produced or is produced in

1 all or part from diverted feedstock. Those are  
2 just some examples. But keeping it open so that if  
3 there's new technologies and that kind of thing  
4 down the road, you don't have to come back and try  
5 to amend the regs.

6           And for pathways to compliance, I think  
7 I'll talk about this a little bit more, but the  
8 water-efficient landscape ordinance, as you know  
9 requires four cubic yards per thousand square feet  
10 of compost on all new construction and major  
11 renovations.

12           And I think if cities -- and I don't know  
13 if you guys know this, but DWR says in their last  
14 reporting they've got 27 percent of jurisdictions  
15 enforcing and reporting to them. Because they  
16 don't have any teeth to make them enforce.

17           And so, I think it would be great. You  
18 would have a precedent for requiring compliance  
19 with CalGreen. If you could also have that for the  
20 WELO as part of the pathway to meet this  
21 procurement target, that would be great.

22           So, I'll give an example of one  
23 jurisdiction in a minute. And I know that doesn't  
24 make sense for everyone, like rural jurisdictions  
25 probably don't have that much development. So, it

1 could be a compost application on range land, or  
2 ag, in the rural jurisdictions just for an example.  
3 Three healthy slides.

4           So, in general, I think the requirement's  
5 still really too high. And I think this is due, in  
6 part, maybe to a couple things. I know, I think it  
7 was in the -- oh, shoot, the Regulatory Impact  
8 Assessment. I was trying not to use the jargon and  
9 I had a hard time remembering what it was. Looking  
10 at that, I think it was an assumption of a WELO  
11 application rate, which is sort of 4 cubic yards  
12 per thousand square feet. That's about an inch and  
13 a third of compost, and that's what you would use  
14 in new construction, totally makes sense.

15           But if a city is going to buy compost,  
16 they're going to apply it on parks, medians, what  
17 have. That application rate is about a half inch,  
18 so it's almost a third less and that could be  
19 pretty significant when we're talking about when  
20 you're scaling up.

21           Let's see, Nick I'm -- no, I'm not almost  
22 done, but I'll be quick.

23           So, how about -- okay, yeah, how about an  
24 example? People love examples. So, our agency,  
25 StopWaste, represents the cities in Alameda County,



1 and two sanitary districts. So, I did a little  
2 spreadsheet to say I wonder what this would mean  
3 for cities and find out what they were already  
4 doing.

5 So, the City of Oakland buys about a  
6 thousand cubic yards of compost a year. And with  
7 the new procurement requirements, they would be  
8 required to purchase 43,000 cubic yards of compost,  
9 which is a quite a bit more.

10 But if they were to enforce their WELA,  
11 which they do, but through enforcement of their  
12 WELO, they end up with about 39,000 cubic yards  
13 being applied.

14 So, this is what I think, if you had  
15 alternative pathways to compliance you could -- if  
16 you're going to build those in, then you can still  
17 get what you want, which is market development.  
18 Right, you want a resilient market.

19 And then, just a couple -- oh, also, that  
20 would cost about a million dollars.

21 So, the other couple tiny comments I have  
22 are kind of correction sort of things. In the  
23 economic analysis, it said that the price of  
24 compost was \$25 a ton for San Francisco or Palo  
25 Alto, or both. It should be \$25 a cubic yard. And

1 considering you get about -- you know, it's 800  
2 pounds per cubic yard. So, that's a factor of over  
3 -- that's a gross overestimate and a gross  
4 underestimate of price. So, there is that. That's  
5 one thing.

6 And the other thing is -- so, maybe  
7 revisit the calculations with that in mind.

8 And in general, in a landscape market,  
9 cities are going to buy compost with -- by the  
10 cubic yard, not a ton. And so, what should happen,  
11 I think, is develop an appropriate bulk density.  
12 We like to use 800 pounds because it's kind of  
13 right in the middle. I'm sure people here disagree  
14 with me for very good reasons. We can talk about  
15 that later.

16 But find a bulk density and just kind of  
17 settle on it for people.

18 And then, lastly, for jurisdictions that  
19 are going to be relying on compost, so all of our  
20 member agencies have really used composting to deal  
21 with their organics. So, I don't know how much of  
22 a pathway to buying renewable natural gas we would  
23 have. If most of it's being used by the facilities  
24 that make it and the jurisdictions that send  
25 organics there, the cities that use composting are

1 kind of like they don't really have much of that  
2 hybrid pathway. I don't know how open that is to  
3 them.

4           So, and related to that, that fuel, fuel  
5 use should not be the indicator. I know you guys  
6 were struggling with like how do you figure out a  
7 baseline, because there's no similar organic  
8 products that you could have relied on to get a  
9 baseline for compost use. But fuel is not the  
10 answer, I don't think. I think we still need to  
11 think that one through about how you decide how  
12 much they really need. Which I do appreciate,  
13 thank you for trying to not make them buy more than  
14 they need.

15           Thank you and thank you for your patience,  
16 everybody.

17           MR. LAPIS: Hi, Nick Lapis, again, with  
18 Californians Against Waste. I'm actually going to  
19 echo the previous two commenters on the need to  
20 expand the types of products that are eligible for  
21 procurement.

22           In the digester world, I think Julia  
23 described it very well. I can't think of a single  
24 reason why we would not allow pipeline injection,  
25 Ultra C generation. In fact, if you were to look

1 at the greenhouse gas benefits, you know, when  
2 you're producing LCFS fuel that's being sold into a  
3 market that will probably be limited by the LCFS in  
4 terms of people aren't going to buy more than they  
5 need. And if that fuel were not on the market,  
6 they would be buying something else.

7           So, the overall carbon impact there would  
8 be almost none as opposed to putting it into the  
9 pipeline. Not to say that we shouldn't include  
10 vehicle fuel, but pipeline injection seems better  
11 environmentally, when you factor in the existing  
12 programs. And just generally, it doesn't make a  
13 lot of sense to limit it purely to vehicle fuel.

14           And on the composting side, I think you  
15 should expand it to include mulch products as well.  
16 And I realize that there are some concerns that I  
17 think have held you back from doing that. One  
18 being that there's a lot of mulch on the market.  
19 It's heavy and somebody could, you know, meet all  
20 their requirements very quickly with a small,  
21 relatively small amount of woody material.

22           And while I understand that, that woody  
23 material would have a different conversion factor  
24 from a greenhouse gas benefit perspective, and it  
25 could be listed as a third separate pathway. And

1 so, it might be a 3 to 1 ratio, or whatever, of  
2 mulch purchases to compost purchases.

3 And the second concern, as I think about  
4 direct land application and, you know, I share that  
5 concern, but I think there are ways to prevent that  
6 in the regulations. We do have a glut of wood in  
7 the market and it seems like that's an opportunity  
8 for procurement. If anything, I mean in Northern  
9 California we don't have a glut of compost, but we  
10 definitely have a glut of wood.

11 And then, finally, State procurement is  
12 noticeably absent. I think it's probably  
13 unreasonable to require all these folks to buy  
14 material when the State isn't doing its own part,  
15 and when the State is a major landowner. So, I'll  
16 just leave it at that. Thank you.

17 MR. WADE: Hi there. I'm Sam Wade, on  
18 behalf of the Renewable Natural Gas Coalition. I'm  
19 going to pile on a little bit here. But first, I'd  
20 like to just offer our support for the proposal  
21 overall. I really think it's a strong framework.  
22 I think it makes a lot of sense to have these types  
23 of procurement targets in place.

24 But that said, our coalition does advocate  
25 for, you know, the increased development and

1 deployment of RNG across all end-use applications.  
2 And we're, therefore, strongly in favor of  
3 broadening what would count toward the procurement  
4 targets to include other end uses.

5           You know, I think I understand the  
6 background of why transportation is the primary  
7 focus in the current draft. But this is really  
8 part of a broader debate the State's having about  
9 how to use the RNG resource effectively. And we  
10 don't think you can resolve it here. We think you  
11 guys should leave it open and have that  
12 conversation with your sister agencies, you know,  
13 outside of this rulemaking. Thanks.

14           MR. PRICE: Hi, I'm Brandon Price with  
15 Clean Energy Renewables. And I also want to echo  
16 the comments about not being so prescriptive with  
17 this procurement requirement. Clean energy is  
18 actually the largest provider of renewable natural  
19 gas's transportation fuel in the State of  
20 California today. In 2018, we delivered over 80  
21 million gasoline gallon equivalents of RNG to the  
22 transportation infrastructure here, in California.  
23 The majority of which that RNG is going to  
24 municipal transit fleets and refuse trucks.

25           So, we see this as being a possible issue

1 with requiring jurisdictions or haulers with  
2 contracts to procure renewable natural gas through  
3 this program. It really cuts off their renewable  
4 natural gas supply in the greater marketplace.

5 And like Sam said, there's greater  
6 conversations going on in the State of California  
7 about the best use for RNG. We really want to keep  
8 that RNG market open, with free competition, so  
9 that hauler, that transit agency isn't forced onto  
10 a particular source of RNG. You know, we want them  
11 to get the most negative carbon-intense RNG to the  
12 fleets that we can. That way, we're recognizing  
13 the biggest reduction.

14 And limiting their purchases to this 1383  
15 RNG really segments the market, so you're really  
16 kind of cutting off a big portion of the NGB  
17 demand, and that can have a crippling effect on the  
18 overall RNG market as a whole.

19 At the onset of your presentation, you  
20 know, you said we need markets here for this  
21 product. You know, these recovered organic waste  
22 products. Well, the transportation market for RNG  
23 is already well established. And, you know, I also  
24 support Julia's comments with allowing for pipeline  
25 injection, because then the markets will determine

1 what the best use for that RNG will be. We have a  
2 need for it in decarbonizing the pipelines.

3           You know, SoCalGas and PG&E are actively  
4 looking for RNG to reduce their own carbon  
5 footprint. Electrification -- or, using RNG for  
6 electrification is a great thing as well.

7           Really, we want to keep all of the options  
8 open because, again, we're already doing a great  
9 thing with diverting this organic waste. Now,  
10 let's let the market determine what the best use  
11 for that is and let's not hamstring those who are  
12 already using it.

13           Because for the most part all of the  
14 entities that are covered by this, are already  
15 using RNG today. So, there would be a lot of  
16 uncertainty on, you know, contracting going forward  
17 and what they're actually going to be able to do.

18           They're not going to be looking out for a  
19 ten-year contract with, you know, a company like  
20 myself, where others in the RNG space -- you know,  
21 presents a lot of uncertainty.

22           And then, one other clarifying point that  
23 I would like to raise, the LCSF does a great job in  
24 incentivizing RNG, but there is this provision in  
25 the LCSF that removes the avoided methane emission



1 credit or the burned organic waste credit, which  
2 really gives you that negative CI score.

3 So, I want to make sure there's a  
4 clarifying -- that we have this discussion about  
5 whether that negative CI would stay in place if  
6 this mandate -- when this mandate goes into play.  
7 You know, is the 50 percent and the 75 percent  
8 diverter organic mandate does that, you know,  
9 preempt these digesters from maintaining that  
10 negative carbon intensity score. Because, then,  
11 that really starts to slip the -- that starts to  
12 flip that economic value.

13 And then, of course, there is also the RFS  
14 value. In talking with the D3 and the D5 RIN,  
15 there's a lot of things that come into this  
16 conversation. The D3, D5 value is something that  
17 EPA still is trying to wrap their heads around.  
18 There's no clarity on that issue. So, a lot of  
19 things to take under consideration, but I  
20 appreciate it.

21 MS. STEIN: Antoinette Stein,  
22 Environmental Health Trust. The presentation had  
23 some slides about counting for procurement -- the  
24 calculation didn't talk about the digestate, the  
25 weight of the digestate. Is that going to be

1 subtracted? Because you're saying that you can use  
2 the calculation you came up with to count for  
3 getting fair allocation of how much they need to  
4 purchase.

5           But you have to subtract out what --  
6 because when you're creating that fuel, you have  
7 digestate that you're then going to either send to  
8 a landfill, or compost it to turn into something  
9 else. But you're not including that weight in the  
10 calculation that you just described. It's just you  
11 didn't even bring it up when you had the slide, so  
12 it didn't get discussed.

13           It's an important issue because it's  
14 probably half the weight. I mean, you know. So, I  
15 really think that it's a loophole and it's silent.  
16 You're silent on it, absent on it.

17           Hopefully, it drives people to compost,  
18 instead of turn it into some lightweight energy  
19 that -- gas that can be used. But if it works,  
20 great. But the question is, just because you're  
21 then hauling off the digestate after you took out  
22 the energy, you know, that has to play into the  
23 calculation. Thank you.

24           MR. NOBLE: Dan Noble, Association of  
25 Compost Producers. This, too, is my favorite

1 section because it speaks about markets. The  
2 challenge I have with the -- well, first of all, I  
3 also want to applaud you for including the  
4 procurement regulations, at least by setting some  
5 targets.

6 If you look at it from the jurisdiction  
7 perspective, we're all trying to manage, you could  
8 say renewable carbon management, or organics  
9 management. I prefer to call it bioresources  
10 management, sustainably and regeneratively.

11 So, if you look at it from the resources  
12 that are not going into landfills and inadvertently  
13 creating a lot of methane, which is the whole  
14 purpose of this regulation is to reduce that, but  
15 you want that to stay in the marketplace. A  
16 certain percentage to stay in the jurisdiction from  
17 whence it was generated.

18 I'm really admonishing CalRecycle to not  
19 be overly restrictive in the kinds of products that  
20 can be made from this resource. Because right now  
21 we're saying just compost and renewable natural  
22 gas. Since I represent a compost association, I'm  
23 all over the compost part of this. But compost  
24 isn't going to take care of the whole bioresources  
25 marketplace, all the renewable carbon.

1           And not only that, compost as is defined,  
2 it doesn't include uncomposted material, which is  
3 definitely part of the marketplace. You know,  
4 sometimes what's called, you know, composted overs  
5 and that sort of thing. I mean, if it is  
6 composted, you'll call it compost.

7           In terms of the gas, whether it comes from  
8 the digestate or if it comes from anerobic  
9 digestion and now, you know, pyrolytic conversion  
10 has already been permitted in a renewable facility  
11 in South Coast Air District. That produces a lot  
12 of energy. And biochar, biochar is the up and  
13 coming additive to not only compost, but soil.

14           Also, organic fertilizers can be made from  
15 this material. We can call them biofertilizers.  
16 So, there's a whole suite of soil amendments. And  
17 that even mention, what about animal feed, like hog  
18 slop from the food waste, which is traditionally  
19 how it was done. Why isn't that being counted as  
20 recycling.

21           And then, all the materials that you can  
22 make, and all the chemicals that you can make, as  
23 well as the different forms of energy. So, there's  
24 a whole portfolio of bioproducts that can be  
25 produced from bioresources.

1           So, what this points to is not wanting to  
2 restrict the market to just two choices, compost or  
3 biogas. But, you know, we're trying to create an  
4 industry here. Could you imagine, you know, saying  
5 that in the renewable, or the water industry, or  
6 the renewable fruit industry that we're only going  
7 to have two kinds of beverages? I mean, it just  
8 doesn't make sense in terms of building a  
9 marketplace.

10           So, somehow in these regulations, you  
11 still -- we still need to do the buy back, but we  
12 also need to explore all the options that can and  
13 will be innovated, I believe, in the next ten years  
14 once these markets are formed.

15           So, I have some of that written down in  
16 these comments, so I'll turn those in. But I hope  
17 you'll take a hard look at it. Thank you.

18           MR. BRADY: And just one quick  
19 clarification on animal feed. That is recovery or  
20 recycling. But I think your point is that it's not  
21 considered -- it's not procurement, but it is  
22 considered in the regulations.

23           MR. NOBLE: Yeah. Most municipalities  
24 probably don't have hog farms, but we said it could  
25 be a contractor within the municipality, right? I

1 mean, that's in the regs as you currently wrote it.  
2 So, if they did have hog farms nearby that should  
3 count, right?

4 MR. BRADY: I understand the point.

5 MR. NOBLE: Yeah, okay.

6 MR. BRADY: I just wanted to clarify that  
7 it is considered recovery, it's just not in the  
8 procurement portion.

9 MR. NOBLE: I see, okay.

10 MS. GREEN: But he wants it in.

11 MR. NOBLE: Yeah, right.

12 MR. BRADY: Yeah, that part registered.

13 MS. GREEN: How do I get this down? Okay,  
14 I'll just leave it. Sharon Green, Sanitation  
15 District of Los Angeles County, and I'll be pretty  
16 brief because I think I can agree with many of the  
17 prior commenters. I had two comments and one of  
18 them was to please add flexibility for allowing  
19 more and different types of products. And there  
20 may be new things that come along as this  
21 marketplace grows, right, and as more waste is  
22 diverted, and people are innovative and come up  
23 with new products.

24 So, one way to do that would be -- and we  
25 suggested some language in our written comments.

1 But to allow new or additional organic products as  
2 approved by CalRecycle. So, leave some flexibility  
3 to add things along the way.

4 And then, the second, more sort of  
5 specific comment that we have, we related it back  
6 to the definition of renewable transportation fuel.  
7 It's possible that this could be addressed in a  
8 different way, but that made the most sense to us.  
9 But, basically, this particular situation we want  
10 to comment on is when you have a wastewater  
11 treatment digester that's taking in food water, and  
12 then we produce fuel. At our treatment plant,  
13 where we're doing this now, one of the  
14 considerations, we're currently building  
15 infrastructure and converting a natural gas fueling  
16 station to a renewable natural gas fueling station,  
17 as a result of the additional gas that we are and  
18 will be producing.

19 But the issue that we wanted to highlight  
20 is the RIN issue that a previous speaker mentioned.  
21 So, in order to take advantage of the highest value  
22 of the RINs to make the project more viable, and  
23 cost effective, we're trying -- we're thinking what  
24 we need to do is put wastewater biogas into the  
25 fuel system and do -- and then, sort of swap, and

1 then use what we would say is the food waste  
2 generated gas to produce electricity to power our  
3 plant for onsite use.

4           So, there's things that are -- you know,  
5 we just are asking for more operational  
6 flexibility. It may not be that everybody will  
7 need that, but I think there's going to be  
8 scenarios like that, that come up, where there's  
9 unintended consequences. So, more flexibility. We  
10 gave some specific suggested changes in our written  
11 comments. Thank you for your consideration.

12           MS. FOSTER: Colleen Foster, City of  
13 Oceanside. Definitely want to reiterate the need  
14 for more flexibility, especially in regards -- in  
15 our particular situation, we have wastewater  
16 treatment facilities within our agency. We  
17 actually have excess digesters currently not being  
18 used. We can easily integrate food waste into our  
19 system.

20           We are currently taking our biosolids and  
21 generating electricity, able to electrify our  
22 wastewater facilities. It would be very  
23 unfortunate to create this whole food waste system  
24 and not be able to use the credit for what we're  
25 doing at our own facility and need to buy additions



1 things, outside of our system. So, that's really  
2 important to address that. Especially for our  
3 ratepayers, because they don't understand the need  
4 to go and buy more product when you're already  
5 doing a good thing with your current system.

6 One thing I'd also like to recommend is  
7 the procurement -- I think the ultimate goal of  
8 this section is to drive the use of compost or  
9 drive the use of these materials that we're  
10 diverting from landfill. So, if that's the goal,  
11 could you write in some flexibility on how we do  
12 that?

13 On my way here this morning I got the  
14 opportunity to read a draft market study that the  
15 County of San Diego put together. And one of the  
16 big things identified in that is some of the  
17 biggest areas to our agricultural and our range  
18 land operators is being able to afford the  
19 application and use of these materials, from a  
20 transportation and distribution perspective.

21 So, as we consider driving the use of  
22 these materials, consider subsidy programs,  
23 programs that help support those industries and  
24 being able to use these materials.

25 So, if a jurisdiction was developing some

1 sort of supportive subsidy program. The money  
2 they're putting towards that, could that be counted  
3 as consideration in promoting procurement of these  
4 types of materials.

5 I also appreciate requiring, the  
6 recommendation to require the landscape model  
7 ordinance. Few jurisdictions are doing that. So,  
8 I think if we drive that and give credit for  
9 jurisdictions to do that, that would help.

10 And then, to lighten things up just a tad.  
11 It's one thing to get our purchasing agents --  
12 speaking of which, we do not have a centralized  
13 purchasing agent in the City of Oceanside. We have  
14 a couple thousand employees, half of which might be  
15 their own individual division, or department  
16 purchasing agent. They're buying their own paper  
17 products, their own toilet paper and paper towels.

18 It's been hard enough to get them to try  
19 to buy recycled content paper and now I need to  
20 tell them they need recycled content toilet paper?  
21 Talk about a way to just make it impossible to try  
22 to implement this type of organics program.

23 The other concern I noticed in a comment  
24 provided by the League of California Cities is the  
25 comment that requiring recycling content paper

1 products could really, actually, be seen as a Prop  
2 2018-26 issue, an unfunded tax.

3 I don't want to be the solid waste  
4 division that all of a sudden has to start paying  
5 for every other department's toilet paper simply  
6 because it's a solid waste law requiring the  
7 purchase of these materials. Thank you.

8 MR. HELGET: Chuck Helget, with Republic  
9 Services. The markets are going to be the key  
10 component of implementation of the SB 1383  
11 regulation, so this is a very important piece of  
12 the regulatory package.

13 With that, I'd like to reiterate what Nick  
14 said, Nick Lapis said about the State procurement  
15 policies and expanding it more into the State  
16 areas.

17 Also, to keep things simple, what was  
18 stated earlier by the California Renewable Natural  
19 Gas Coalition, and Julia Levin, and the City of  
20 Oceanside. I think she made some very good, solid  
21 points and I'll lend her support to those comments.

22 MR. SCHIAVO: Pat Schiavo, representing  
23 CR&R Environmental. Pretty much everything's been  
24 said that I was going to say. So, I'd just like to  
25 echo especially Julia's comments. Just a big

1 concern about the language right now would stifle  
2 future innovations, technologies that we may not  
3 even envision at this point in time. So, thank  
4 you.

5 MR. EDGAR: Neil Edgar, California Compost  
6 Coalition, no lengthy letter. I do think direct  
7 procurement is a key part of program  
8 implementation, but not necessarily to drive  
9 market. At least it's important because it  
10 provides a feedback mechanism for local governments  
11 to understand the quality of the programs that  
12 they're executing and the success of those  
13 programs.

14 I think there could be options for  
15 developing, the jurisdictions to develop ordinances  
16 that could help drive the measurable purchases of  
17 the materials that we're talking about. And if  
18 that includes additional materials and expand the  
19 scope of that, you know, mandating ordinance  
20 implementation, minimum soil organic matter  
21 content, requirements for development projects,  
22 other city contractor uses of RNG through other  
23 policy drivers may be another way for cities to  
24 achieve success.

25 And I would also add maybe a third

1 procurement requirement, not necessarily out of the  
2 same bucket, but I would echo what Mr. Lapis said  
3 about the glut of wood chips on the market, now.  
4 Only going to get larger with trying to recover  
5 four and a half million tons of wood that's  
6 currently being disposed.

7           And I would also echo the need to have  
8 other procurement requirements on other State  
9 agencies, education, and nonlocal entities to help  
10 promote the development and the success of these  
11 programs. Thanks.

12           MS. BALSLEY: Hi. Rachel Balsley, again,  
13 with StopWaste, Alameda County Waste Management  
14 Authority.

15           I think we do support -- I want to just  
16 speak to the paper procurement requirements. And  
17 we've been working with our member cities in  
18 Alameda County for years on environmentally  
19 preferable purchasing. And most of them do  
20 purchase recycled content paper.

21           But what I am struggling with is that the  
22 requirements mean that the jurisdictions would have  
23 to -- in order to prove that they're purchasing 75  
24 percent of paper products, and printing and writing  
25 paper, they have to track all purchases so that you

1 get the total amount to prove the 75 percent.

2 And most of our jurisdictions do have  
3 decentralized purchasing.

4 Also, the definition of paper products  
5 right now includes building insulation and panels,  
6 and that is purchased quite differently than office  
7 supplies.

8 So, I think if you do keep the language in  
9 around this, I think you should remove -- have  
10 language that says except building materials, or  
11 building insulation and panels. Because that's in  
12 capital projects and it's done very differently,  
13 and usually by contractors.

14 And then, also, on the tracking aspect one  
15 more time, that I think purchasers as big as, say,  
16 Alameda County itself, can get vendor reports that  
17 may be able to help with some of this reporting.  
18 But most of the smaller jurisdictions would not,  
19 and they just don't have the staff resources to be  
20 able to track that level or purchasing of an  
21 expanded list of paper products. Maybe they could  
22 do it on the printing and writing paper, but I  
23 don't think that's possible on the paper products.

24 MS. STEIN: Antoinette Stein,  
25 Environmental Health Trust. I retired from State

1 work and I worked in the EPP, Environmentally  
2 Preferable Purchasing Office of DTS. So, one of  
3 the things is it would be really good -- we heard  
4 some comments that it's hard for local  
5 jurisdictions to purchase these goods, to have the  
6 commodity contracts from the State available. So  
7 that local governments, and nonprofits, and others  
8 could come to access these very large contracts  
9 that give really good prices, so -- and have the  
10 specifications inserted already.

11 The other thing is that as I spoke before  
12 about this loophole issue of counting the  
13 digestate. I mean, the issue is you want to count  
14 the material that's going to go to create fuel.  
15 But that's a weight, how much is going to come in.

16 You're having an amount digestate from  
17 taht weight that came in and if it's just a  
18 loophole, you know, you can send it all to try and  
19 get some energy out of it, and then you get these  
20 credits. But you don't count the digestate. I  
21 want to repeat that again.

22 But the fuel, we heard from the  
23 procurement end, could be purchased. But I didn't  
24 hear you say that there's a certification on that  
25 fuel quality, other than it's going to hit the

1 pipeline and then there will be some requirements  
2 for a purity of that material, so there's no toxics  
3 in it.

4 But we have the certifications already in  
5 place, several of them exist. So, I highly  
6 recommend that in the procurement requirements  
7 include some certification of quality for the  
8 goods, and not to get really bad quality with  
9 toxics. I can imagine shimmering, with lots of  
10 bottle caps in the soil of any park that I could go  
11 to, if we didn't have the certifications that we  
12 need to make sure there's cleanliness. Thank you.

13 MR. EDGAR: Evan Edgar, Edgar Associates,  
14 on behalf of GreenWaste Recovery. And they  
15 submitted a letter today with regards to opening up  
16 the procurement to include combined human-powered  
17 (phonetic) electricity. So, I concur with the  
18 comment from Julia Levin today, that we need to  
19 open up procurement to include CHP and electricity.  
20 There's a glut of wood chips out there and the  
21 ability to go biomass conversation to renewable  
22 energy is important.

23 On behalf of the anerobic digester  
24 industry, I represented a few facilities whereby  
25 once a digestate's out of an anerobic digestion



1 facility, the methane has been removed. So, there  
2 is no methane coming of an AD process. So, that AD  
3 then goes off to a compost facility, a permitted  
4 compost facility in order to be composted and the  
5 material is screened to a specification of 0.5  
6 percent. So, there is a quality control aspect of  
7 removing digestate from anerobic digestion with  
8 quality products through permitted facilities.  
9 Thank you.

10 MR. DAVIS: John Davis, Mojave Desert &  
11 Mountain Recycling Authority. Just two quick  
12 suggestions. On the population, consider excluding  
13 State and Federal facilities, prisons, military  
14 bases. Some of the communities I work with, almost  
15 half again of their population is in their prisons  
16 or military facilities. And so, it distorts their  
17 population numbers pretty considerably.

18 Also, I understood that the intent of that  
19 exclusion on the fuel, the prior year's fuel  
20 purchase, does it also comply to requirements for  
21 compost somehow? When I read it, I didn't see it  
22 that way. I saw it just applying on the fuel side.  
23 And strongly suggest -- I mean, I ran the numbers  
24 for a couple of communities that have literally no  
25 turfed areas. They're high desert communities,

1 with no turfed park areas, no medians, and they'd  
2 be required to purchase several thousand tons of  
3 compost with, really, no place to apply it. Yeah,  
4 very little, okay.

5 So, look at the prior year. I liked the  
6 slide that showed some other uses and I'll start to  
7 ponder how that might apply. But there's really  
8 limitations on the application of some of that  
9 material, at least in the cities I work with.

10 Thank you.

11 MR. HILTON: Rob Hilton, HF&H Consultants.  
12 I'm going to echo a lot of the comments on you're  
13 asking for too much procurement, at least of the  
14 couple of things you're letting us procure. And  
15 so, please either reduce the requirement because  
16 it's way more than communities need, or change the  
17 mix of the materials, adding mulch, adding power,  
18 all the things that have been suggested are good  
19 ones. But these are like factor of five overruns  
20 on what people need in the communities that we've  
21 run the numbers.

22 So, we need to either have some diversity  
23 or a level requirement. Thank you.

24 MR. OZORAK: Hello, Etienne Ozorak,  
25 Sacramento County. I just wanted to echo the

1 information that my colleague from the City of  
2 Oceanside presented. In the case of Sacramento  
3 County, we have 11,500 employees, as well as an  
4 untold number of vendors. Trying to track the  
5 amount spent on paper purchases and the amount of  
6 paper purchased is certainly going to be very  
7 challenging because there is no centralized  
8 purchasing. Thank you.

9 MR. ASTOR: Kelly Astor. I remain  
10 unaffiliated for today's hearing. If you're going  
11 to give locals the relief that they're seeking,  
12 which I'm a little bit ambivalent on, I sure hope  
13 you're going to give the haulers, who are stuck  
14 with material they had to process with no home,  
15 concomitant relief. And all too often I'm  
16 confronted, not by anybody in this room, and I mean  
17 that sincerely, but by municipal consultants or  
18 municipal employees who sit across from me at the  
19 franchise table and say that's your problem.

20 So, don't add to the haulers' burden,  
21 please. We're still waiting for the hundred new  
22 facilities. And once we process all this, there's  
23 been no indication to my knowledge that we're going  
24 to have a guaranteed market for any of this,  
25 particularly in Southern California.

1           So, if somebody makes a case for relief,  
2 by all means give it to them. But give taht same  
3 relief or something corresponding to it to the  
4 haulers who are charged with the infrastructure,  
5 and the collection, and all the other nonsense.  
6 Otherwise, we're going nowhere fast. Thank you.

7           MR. BOONE: Arthur Boone again. Funny he  
8 should mention it. At the last meeting, about six  
9 months ago, I invited Mike Mohajer, from the county  
10 I guess it is, or the city, to come up and tour the  
11 composting facilities that service the Bay Area.  
12 Because none of those -- very few of those  
13 facilities existed 15 years ago. But when the  
14 people in the city said we want to do green waste  
15 composting; those facilities developed and grew.

16           To the best of my knowledge, no organics  
17 collected in a source-separated fashion from the  
18 nine counties in the Bay Area has gone to the  
19 landfill in the last 20 years. If anybody knows of  
20 any that has, I'd be glad to hear about it.

21           What Southern California has to do now is  
22 what we did after 939. And I don't mean to be  
23 regional, or "gnat snippy", or anything like that.  
24 It's just a matter of fact.

25           My daughter lives in West L.A. She has an

1 asshole type composting program available to her.  
2 Nothing worth talking about.

3 L.A., it's time for Southern California to  
4 get on the bandwagon. I'll be Dan can give you a  
5 lot of information about that, as well, but that's  
6 just my opinion. Thank you.

7 And while I'm up, one other thing. I  
8 think methane is a bubble. I think methane fuel is  
9 going up, but it's going to level off and I think  
10 it's going to go down.

11 The State put a billion dollars on the  
12 table, if I remember correctly, to electrify every  
13 vehicle, every bus in the City of Los Angeles. Is  
14 that correct? Okay, Palo Alto operates two  
15 electric garbage trucks. They seem to be happy  
16 with that.

17 I've heard of some people who have zero  
18 waste energy programs, who make methane. They're  
19 not happy with it and they don't think it's worth  
20 the effort that's involved, and being involved in  
21 that is getting paid back at all.

22 The real question is how much of the  
23 methane is escaping into the atmosphere? Nobody  
24 can tell us. If 30 percent of the methane is  
25 escaping into the atmosphere, we're making things

1 worse instead of better by doing it. But if it's  
2 zero percent then, hey, maybe it's worth doing.  
3 But we need those kinds of numbers and they're not  
4 there.

5 In the same way the landfill numbers  
6 seemed to get stuck a couple of years ago, there  
7 have been no numbers at all on the methane  
8 generation from AD facilities, to the best of my  
9 knowledge.

10 When I asked the wastewater treatment  
11 engineer what percent do you recover? He said 100  
12 percent. We know that's not true. What is the  
13 right number? I don't know. But I think you all  
14 ought to find out. Thank you.

15 MS. SCHOONMAKER: I'm back. Kelly  
16 Schoonmaker, StopWaste. One more thing. Using  
17 compost, getting people to use compost, we used to  
18 do trainings called Bay Friendly Training. It's a  
19 huge, talk about a paradigm shift, go from using  
20 synthetic fertilizers and other conventional  
21 methods to using compost and mulch, it's a big  
22 deal. It's really difficult for people. And a big  
23 part of it is education.

24 So, while I know it's not something that  
25 would make it into the regs directly, I would think

1 it would be great if CalRecycle could encourage and  
2 support local sustainable landscape training for  
3 maintenance and design. So, things like rescape,  
4 Bay friendly, G-3. Anyway. So, and if you have  
5 any questions, you can always contact me directly.  
6 Thank you.

7 MS. LEVIN: Hi, Julia Levin, again. I  
8 forgot to make one point earlier. One of the other  
9 concerns we've heard from CalRecycle staff about  
10 broadening the uses of renewable gas in the  
11 procurement side of the equation is a lack of  
12 metrics. So, we suggested one in our written  
13 comments, which is how you convert biomethane to  
14 electricity, according to the Department of  
15 Energy's website. I believe found a number of  
16 additional metrics since then. The Energy  
17 Commission has its own metrics for conversion to  
18 combined heat and power.

19 You don't need any more metrics for  
20 pipeline gas. It would be the same metric that  
21 you're using for vehicle fuel, it's just the  
22 conversion of tons of organic waste to standard  
23 cubic feet of biomethane.

24 But for electricity and combined heat and  
25 power, there are multiple sources from the

1 International Energy Agency, to the U.S. Department  
2 of Energy, and the California Energy Commission.  
3 So, the metrics are readily available, so please  
4 don't let that be a reason for not expanding the  
5 uses of biomethane. Thank you.

6 MR. BRADY: I guess this really was  
7 everyone's favorite portion of the regulations.  
8 Thank you, everyone. A lot of really good  
9 comments.

10 I just want to -- for providing some  
11 context on and responses on a couple of those, I'll  
12 see if there's anything from the online  
13 participants and, Chris, if there were any comments  
14 to read.

15 MR. BRIA: This is from Tom Chiarodit, I'm  
16 not sure how to pronounce that, Santa Barbara.

17 A recent speaker question on the methane  
18 measurement science. I was told it was not  
19 relevant since SB 1383 dictates the reduction of  
20 food and organics in the landfill. Agreed.  
21 However, the methane measurements are very  
22 important when it comes to writing an informed  
23 regulatory impact assessment, which assumes certain  
24 benefits based on projected methane emission  
25 reduction. The methane measurements are also



1 relevant to the EIR and the overall cost benefit  
2 analysis of the proposed legislation.

3           Okay. This is Alexander Fung, the San  
4 Gabriel Council of Governments. There's some other  
5 stuff, so I'm going to paraphrase. While  
6 procurement does not necessarily mean purchasing  
7 recovered organic waste products, the new  
8 procurement requirements may still result in  
9 substantial additional costs to local  
10 municipalities, in addition to the costs needed to  
11 comply with the extensive programmatic requirements  
12 of the proposed regulations.

13           Additional costs resulting from complying  
14 with the procurement regulations represent an  
15 unfunded State mandate. Under California  
16 Constitution, Article 13-B, Section 6-A, as the  
17 regulations would impose a new program on cities,  
18 and neither the proposed regulations, nor the  
19 initial statements of reasons identify a clear  
20 state funding source.

21           We'd like to request CalRecycle work to  
22 develop markets for such material in a second  
23 regulatory proceeding.

24           And one more. Deidra Dingman, Contra  
25 Costa County. Some form letter info. What grants

1 CalRecycle the legal authority necessary to impose  
2 such burdensome and potentially unreasonable  
3 procurement requirements on individual. What if  
4 the jurisdiction can't use, or require others to  
5 use purchase on its behalf, as much of either, both  
6 type of products as required to meet its  
7 procurement target?

8 MR. BRADY: Okay. Thanks, Chris. And  
9 just for folks participating online, just to  
10 reiterate that even though we may not be reading  
11 the entirety of your comment aloud, just due to  
12 time and length, if you submitted your comment  
13 online it is being recorded and it will receive a  
14 written response.

15 Any other comments in the room?

16 MS. STEIN: Sorry. Antoinette Stein,  
17 Environmental Health Trust. We have a thousand  
18 school districts. They're a local entity in my  
19 mind. They're a different type. They're not, you  
20 know, a city or county, but they're part of our  
21 governmental system. And that would be perfect to  
22 make these same requirements in the school  
23 districts. Because the children are the ones  
24 learning, and they're the ones that spread this  
25 message to the rest of the State.

1           And so, if we could instill it at the  
2 schools, I think parents would be more accepting.  
3 You heard that this is not something people want to  
4 do. And it's not new. The fabric has been here  
5 for many years and we haven't made the progress we  
6 need. I think we need our children to really help  
7 us, give us a boost, a kick in the pants.

8           MR. BRADY: Thanks. And a lot of good  
9 comments on this and we appreciate everyone  
10 s feedback, both in writing and what they provided  
11 today.

12           I did want to touch on a couple of things  
13 relative to end uses. Certainly, hear everyone  
14 loud and clear on electrification and we'll  
15 continue to look at that.

16           Do you want to -- you know, not  
17 necessarily going through the statute in detail  
18 right now, but there is some language in there  
19 directing us to look at the Integrated Energy  
20 Policy Report, and we can have a further  
21 conversation about that offline, but provide  
22 written responses on that, as well.

23           We can disagree on legal interpretation of  
24 SB 1383, if you'd like, and we'll provide a written  
25 response on that as well.

1 Mulch is actually just on one piece. The  
2 conversion factor is not really an issue for  
3 electrification. It is for other potential and  
4 uses, such as mulch, where it's difficult to  
5 convert the amount of organic waste feedstock. And  
6 to the amount of product, there is conversions for  
7 renewable transportation fuel, and there's  
8 conversions for electrification. But there's also  
9 conversions to compost. But that does become a  
10 potential issue with other more landscape-oriented  
11 end uses. And so, that's why you see sort of a  
12 limited focus on that.

13 Relative to purity or policy standards, we  
14 are requiring that the material is processed at a  
15 solid waste facility, or otherwise authorized  
16 facility, which is inclusive of wastewater  
17 treatment plants where there are existing health  
18 and safety standards that apply to those  
19 facilities, as well as the end products that they  
20 create.

21 And then, there was one piece I did want  
22 to clarify. And I recognize this is not all of the  
23 comments today. I just wanted to address a couple  
24 up front, is on the fuel purchasing limit. The  
25 metric is -- that would exempt a jurisdiction from

1 the requirements to procure material is based on  
2 fuel. But if that -- if they meet that fuel  
3 exemption metric, they would be exempt from both  
4 compost and fuel purchasing. So, it wouldn't only  
5 be exempting them from the fuel purchase. And  
6 that's part of the -- that's much simpler to  
7 quantify previous year purchases of fuel versus  
8 previous year's purchases of compost.

9           So, a lot of other really good comments  
10 and we can -- we'll provide written responses on  
11 all of those, but did want to address a couple of  
12 those up front.

13           So, with that, unless there's anymore  
14 comments on this section, we'll move into  
15 enforcement.

16           So, I'll ask Georgianne Turner and Trisha  
17 to come up on that.

18           And just a reminder for folks, after this  
19 presentation we'll do -- accept public testimony on  
20 the enforcement and reporting aspects of the  
21 rulemaking. And then, to the extent that there's  
22 additional comments that folks would like to make,  
23 not specific to any section that's already been  
24 presented or that you'd like to go back to, we'll  
25 be accepting public testimony again at that time,

1 until all of the testimony's complete. So, with  
2 that, I'll turn it over to George and Trisha.

3 MS. TURNER: Okay, we're on the home  
4 stretch. And Trisha's going to go over the slides  
5 today for us. For those of you who have been  
6 tracking us for a while, she's new and I'm very  
7 happy to have her assisting on the enforcement  
8 stuff.

9 So, Trisha, you can take it away.

10 MS. MOORE: Thank you. Okay, so today  
11 we're going to go over Articles 13 through 16.  
12 We're going to go over the jurisdiction's minimum  
13 requirements for reporting and recordkeeping,  
14 inspections and enforcements, and California's  
15 enforcement over regulated entities, and  
16 jurisdictions, and penalties.

17 Beginning in February 2022, jurisdictions  
18 shall report copies of ordinances they've adopted,  
19 the date of compliance with container color  
20 requirements, and reporting items in Article 13.

21 Beginning in August 2022, jurisdictions  
22 will begin reporting annually. The first report is  
23 for the first six months of 2022, due in August of  
24 2022.

25 The second report will overlap of the

1 previous report and the remainder of the calendar  
2 year of 2022. And that is due in August of 2023.

3 Each year after that, the report shall  
4 cover the calendar year and is due in August of the  
5 following year.

6 The jurisdiction also needs to maintain  
7 all required records in the implementation record.  
8 The specific requirements on how to maintain the  
9 records are here. It must include ordinances and  
10 enforceable mechanisms, contracts and agreements  
11 with public and private entities, their enforcement  
12 and inspection program, and all key records  
13 required by the chapter.

14 The Department will audit the  
15 implementation record as part of its evaluation of  
16 the jurisdiction's compliance with the chapter.

17 Reporting and implementation records must  
18 include all information required by the chapter.  
19 This graphic is a snapshot of items to be reported  
20 and kept in the implementation record.

21 This is an example of how the  
22 implementation record and annual reporting are  
23 different. The implementation record asks for  
24 specifics, the annual report asks for high level  
25 metrics. So, the example is jurisdictions are

1 required to inspect commercial generators for  
2 compliance. They report the number of inspections  
3 completed in the annual report. They maintain  
4 copies of all inspection reports in the  
5 implementation record.

6 I'm going to start with jurisdiction  
7 inspection requirements. They include compliance  
8 reviews, route reviews, inspections of the edible  
9 feed generators, and they also need to conduct  
10 enough inspections to verify compliance, and they  
11 follow up and investigate complaints.

12 Jurisdictions may designate another entity  
13 to fulfill these requirements, such as contracting  
14 with the County Health Department to inspect edible  
15 food generators.

16 If the jurisdiction is using a three- or  
17 two-bin system, they are required to do an annual  
18 compliance review of garbage accounts for  
19 commercial businesses that generate two cubic yards  
20 or more per week of solid waste, and produce  
21 organic waste. Commercial businesses include  
22 multi-family dwellings.

23 This can be a desk audit to verify that  
24 service is provided and that generators are  
25 complying through either self-hauling or back-



1 hauling. It includes route reviews of commercial  
2 businesses and residential areas for compliance  
3 with organic waste generator requirements and  
4 container contamination requirements.

5 This can be done in agreement with their  
6 hauler. The hauler could be verifying subscription  
7 and monitoring for compliance. This needs to be  
8 done on randomly-selected containers. And we do  
9 ensure that all collection routes are reviewed  
10 quarterly.

11 They also need to do inspections on tier  
12 one edible food generators in 2022, and tier two  
13 starting in 2024.

14 They would be verifying that they have  
15 arrangements with a food recovery organization and  
16 that the food generators are not intentionally  
17 spoiling food that can be recovered.

18 For a jurisdiction using a one-bin  
19 container service, it's pretty much the same as the  
20 two- and three-bin service, except they need to  
21 verify the contents or transport it to a high  
22 diversion organic waste processing facility. And  
23 that that facility is meeting the requirements of  
24 the organic content recovery rate. You don't have  
25 to do route reviews for contamination. And

1 inspections on edible food generators are  
2 unchanged, they're pretty much the same.

3 This slide compares mandatory organic  
4 recycling to SB 1383. The major different between  
5 MOR and 1383 requirements is that MOR only covers  
6 commercial businesses generating two cubic yards or  
7 more of solid waste. 1383 ensures all generators  
8 have organic collection services.

9 However, the monitoring of generator  
10 participation is very similar. Specifically, the  
11 proposed 1383 regulation sets the annual  
12 monitoring, which regulations define as compliance  
13 review, at a threshold for all commercial  
14 businesses over two cubic yards, similar to the MOR  
15 requirements for monitoring.

16 For MOR, jurisdictions have to notify  
17 noncompliant business of their responsibilities.  
18 Under 1383, jurisdictions also have to notify  
19 noncompliant businesses of violations. And before  
20 2024, the jurisdiction must provide education to  
21 those businesses and violations. And after 2024,  
22 the jurisdiction must start the progressive  
23 enforcement process outlined in the regulations.

24 In both cases, jurisdictions report  
25 annually. New inspection requirements in 1383

1 require the jurisdictions also inspect an  
2 undetermined amount of edible food generators, and  
3 also conduct route reviews and respond to  
4 complaints.

5           The thought behind 1383 inspection  
6 requirements is that if a jurisdiction had a solid  
7 MOR program, it should be able to meet both of the  
8 requirements.

9           And now, we're moving into the enforcement  
10 by a jurisdiction. So, by January 1st, 2022,  
11 jurisdictions are required to have an enforcement  
12 mechanism or ordinance in place that they are not  
13 required to enforce until 2024. Between January  
14 2022 and December 2023, jurisdictions need to  
15 identify businesses in violation, provide  
16 educational material to those generators.

17           And then, after January 2024,  
18 jurisdictions shall take enforcement action against  
19 organic generators not in compliance. This  
20 includes issuing notices of violation, conducting  
21 follow-up inspections, documenting all enforcement  
22 actions and imposing penalties.

23           Here we have the maximum time frame for a  
24 jurisdiction's enforcement for a first offense. A  
25 jurisdiction has 60 days after identifying a

1 violation to issue a notice of violation. Once the  
2 notice of violation is issued, the jurisdiction  
3 must reinspect within 90 days. If the violation is  
4 not corrected, the jurisdiction must commence  
5 action to impose a penalty no later than 150 days  
6 from the date of the notice of violation.

7           There is flexibility in the regulations  
8 for jurisdictions to implement their own  
9 progressive enforcement process. For example, they  
10 may add additional noticing to get a business into  
11 compliance before imposing penalties.

12           For example, like 15 days before finding  
13 -- after finding the violations they can send a  
14 warning letter. 45 days after the violation, send  
15 another warning letter before issuing a notice of  
16 violation.

17           Extensions may be granted for extenuating  
18 circumstances, such as conditions outside the  
19 control of the entity. Such as if the jurisdiction  
20 is on a CAP and the entity is unable to comply as a  
21 result of that CAP. We'll get into that in a  
22 minute.

23           Here we have the maximum time frame for a  
24 second offense. The only difference is the number  
25 of days the jurisdiction has to commence actions to

1 impose a penalty. The time frame is reduced from  
2 150 days to 90 days.

3 So, after 2024, jurisdictions shall impose  
4 penalties equivalent or stricter than those listed  
5 in Table 1 of Article 16. The penalty amounts  
6 differ by the type of violation, the number of  
7 repeat violations, first, second or subsequent  
8 offense. Severity level. Each level is a range  
9 and penalties are imposed per day. And a second  
10 offense occurs when the same violation happens  
11 again within one year of the previous penalty.

12 The amounts in that time frame have been  
13 changed from the previous regs to be consistent  
14 with the Government Code -- the previous draft  
15 regs.

16 Okay, here we have the jurisdiction-issued  
17 penalty amount. There's three levels in the  
18 penalty chart. Revoking, suspending, or denying a  
19 permit, registration license, or other  
20 authorization shall be considered stricter than the  
21 penalties listed here.

22 Now, we're moving on to the Department  
23 enforcement. The Department enforcement  
24 responsibilities include entities that are not  
25 under the authority of the jurisdiction, such as

1 nonlocal entities, local education agencies, multi-  
2 jurisdictional entities, or entities that the  
3 jurisdiction fails to enforce on.

4           It's also jurisdiction. And they also  
5 have to follow up on complaints against  
6 jurisdictions and entities, and may impose  
7 penalties against any regulated entity not in  
8 compliance with the chapter.

9           The Department has the responsibility to  
10 take enforcement action for State agencies,  
11 prisons, universities and school districts, as they  
12 are not under the authority of the jurisdiction.

13           Now, I'm going to talk about referrals to  
14 the Department. If a jurisdiction finds a chain  
15 restaurant or grocery store in violation, such as  
16 an Olive Garden or a Safeway, they can be referred  
17 to CalRecycle. The jurisdiction must first inspect  
18 the entity and issue a notice of violation. And if  
19 they still do not comply, the jurisdiction may  
20 refer them to CalRecycle. Once referred and  
21 accepted, the jurisdiction stops enforcement  
22 action.

23           If a jurisdiction fails to enforce, the  
24 Department may take enforcement action against the  
25 entity and the jurisdiction. CalRecycle will

1 provide written notice and the jurisdiction has 60  
2 days to provide evidence the entity is in  
3 compliance before an enforcement action was taken.

4 Now, we're moving on to Department  
5 evaluation of a jurisdiction's compliance.  
6 CalRecycle will be evaluating the jurisdiction's  
7 compliance by conducting joint inspections with the  
8 jurisdictions and reviewing the implementation  
9 record.

10 Here's a few examples of things we'd be  
11 looking at. Verifying that all organic generators  
12 have service. If the jurisdiction is providing  
13 education, and if they're issuing notices of  
14 violation within the correct timeline.

15 A jurisdiction's evaluation is based on if  
16 specific standards are met. The evaluation is not  
17 based on a series of factors or elements, as in  
18 Section 41850, as this is used to determine if a  
19 good faith effort has been made to comply.

20 Through an evaluation by the Department,  
21 if a violation is found, the jurisdiction has 90  
22 days to comply. And extension may be granted, but  
23 the jurisdiction can demonstrate that a compliance  
24 can be reached in 180 days. The request must be  
25 submitted in writing and prior to the end of the

1 90-day deadline. If the jurisdiction cannot  
2 comply, due to a long-term infrastructure issue or  
3 other emergency, an extension for up to 24 months  
4 may be granted. This also needs to be submitted in  
5 writing prior to the end of the notice of violation  
6 deadline.

7 Most violations will fall within the 90-  
8 day time frame. Some violations will require an  
9 additional 90 days to correct. Jurisdictions have  
10 to request the extension in writing and demonstrate  
11 that compliance can be achieved within 180 days.

12 Long term violations. In most cases, it  
13 will be apparent after the initial 90 days if the  
14 violation requires a corrective action plan, or  
15 CAP.

16 However, the red line on this slide  
17 indicates the CAP can be an extension of the first  
18 NOV. This would be a rare situation with unusual  
19 circumstances.

20 Jurisdictions may have over two years to  
21 comply. They must request a CAP in writing and  
22 demonstrate extenuating circumstances and that  
23 substantial effort was taken to comply.

24 A jurisdiction will have to meet specific  
25 compliance deadlines and milestones during the 24-



1 month time frame. Penalties may be imposed if a  
2 jurisdiction fails to meet the final compliance  
3 date, or fails to meet milestones on specific  
4 dates.

5 In order for a jurisdiction to qualify for  
6 a CAP, they must demonstrate substantial effort and  
7 extenuating circumstances that the regulations  
8 define. Substantial effort means the jurisdiction  
9 has taken all practical steps to comply. And  
10 failure to provide staff resources or sufficient  
11 funding is not considered substantial effort.

12 Extenuating circumstances may be a delay  
13 of adequate capacity, renegotiating franchise  
14 agreements, or a natural disaster.

15 So, to review, a CAP is issued by the  
16 Department for specific reasons, granted for no  
17 longer than 24 months, contains critical  
18 milestones, penalties for each milestone. Full  
19 compliance is required by the final deadline.

20 CalRecycle may impose penalties if a  
21 jurisdiction is in violation of the requirements of  
22 the chapter, and the penalties differ by the type  
23 of violation, the number of repeat violations, and  
24 the severity level.

25 So, our current regulations have six

1 levels of penalty. Department-issued penalties  
2 start at level four and are assessed per day.

3 Certain factors may be considered when  
4 determining the penalty amount, such as the  
5 willfulness of the violator's misconduct, evidence  
6 of financial gain resulting from the violation, or  
7 conditions outside the control of the entity.

8 Oh, I'm sorry, I was supposed to take that  
9 last part off. I think that is it. Thank you.

10 MS. TURNER: So, that concludes our  
11 presentation and we're happy to stay as long as you  
12 want to stay.

13 MR. BRADY: Yes. So, we'll now accept  
14 comments on this portion and then after we finish  
15 the comments specific to reporting and enforcement,  
16 we'd open it up again to any general comments, or  
17 comments that people that -- that they'd like to  
18 raise on issues that weren't addressed today.

19 MR. DAVIS: John Davis, Mojave Desert &  
20 Mountain Recycling Authority. I want to repeat a  
21 comment I made this morning that applies  
22 specifically to this portion.

23 Communities that are economically  
24 disadvantaged have a far higher hurdle,  
25 particularly per capita in compliance. And so, if

1 you consider the median income consequence to the  
2 regulatory review of \$17 a month -- I'm sorry, \$17  
3 a year for single family homes to comply. That's  
4 what's in the regulatory assessment.

5 If that's a hundred percent, if you're a  
6 city that's at 50 percent of median income, that's  
7 a much higher hurdle. It's much more painful to  
8 those residents and the communities generally are  
9 not as well off and have to struggle to meet other  
10 service requirements.

11 So, in a substantial effort, and the  
12 corollary provision that allows exceptions, please  
13 consider the impact on these economically  
14 disadvantaged communities. That, really, it's a  
15 real struggle for some of the communities. And  
16 I've seen numbers that are way beyond the \$17 a  
17 year to comply, for some of these communities.  
18 Because they're economically disadvantaged for  
19 reasons. They're remote. They're isolated and the  
20 nature of their population is going to make it  
21 really, really difficult to comply. So, please  
22 consider that in the consequences. So, thank you.

23 MS. FOSTER: Colleen Foster, City of  
24 Oceanside. I must admit, by the time I got to this  
25 section in our comment letter, I think I got tired.

1 The reporting and enforcement section is over 25  
2 pages long. I think our attorney even still  
3 struggles with interpreting and how we would  
4 implement it from a jurisdictional staffing  
5 approach. It's extremely prescriptive, extremely  
6 complicated. Very difficult to convey to my  
7 stakeholders and council members what needs to be  
8 done.

9           The reporting requirements, alone, are  
10 overly burdensome and too prescriptive, making it  
11 completely impossible to be able to comply. I  
12 think it sets up jurisdictions who are making a  
13 good faith effort to comply with this regulation.

14           I think jurisdictions right now concerned  
15 about just trying to figure out how to build a  
16 facility or a system for food waste. They're not  
17 even comprehending the staffing reality and  
18 programmatic reality of needing to do those route  
19 reviews, those reporting requirements, needing to  
20 chase after our haulers, and our edible food  
21 recovery generators, and our self-haulers, and all  
22 the physical space waivers that we're going to  
23 face.

24           It's also extremely difficult to put the  
25 burden on the jurisdiction to make a higher -- be

1 able to do a more stringent standard on our  
2 entities. So, if the regulation fails to require  
3 all generators to comply and the regulators tell  
4 us, well, the city can pass a more stringent  
5 standard, that's impossible to do at a local  
6 jurisdictional level considering the cost  
7 implications of this program.

8 We're looking to implement a commercial  
9 food waste program as early as next year, and I'm  
10 already looking at a 6 to 14 percent rate increase,  
11 and that's infrastructure alone. That does not  
12 take into consideration the staffing and  
13 programmatic implementation cost for commercial  
14 recycling. And I haven't even looked at the  
15 residential side of it, yet.

16 So, I think I'd really like you to  
17 consider that. I don't think you see many cities  
18 here, because I don't think cities realize what's  
19 coming up, and they're still struggling to keep up  
20 with AB 341 and AB 1826, two mandates that I don't  
21 think have been that successful.

22 So, I encourage you to take a look again  
23 at this section to see what you can do. And it's  
24 not just about creating two-year extensions, or  
25 tings of that nature. It's really looking at how

1 prescriptive you've done. And considering  
2 opportunities for jurisdictions to come to you with  
3 compliance plans, education plans that may look  
4 different than what you think needs to be done, but  
5 are effective for those communities. So, thank  
6 you.

7 MS. BALSLEY: Hello, Rachel Balsley from  
8 StopWaste, again. And just piggy-backing off of  
9 what was just said, I do feel like in many ways,  
10 with seven years of implementation of our mandatory  
11 recycling and our composting ordinance, we are  
12 ahead in many ways. But we have spent, you know,  
13 \$1.5 million per year on implementation of this  
14 project over those times. We've spent thousands,  
15 tens of thousands of dollars, probably, on  
16 customizing our own customer relationship  
17 management software.

18 Because if you look at how prescriptive --  
19 you know, the six -- even just tracking the 60  
20 days, 90 days, all of those different time periods  
21 per account is very difficult. And we are, like I  
22 said, ahead because we created that system. But  
23 someone who's starting from scratch would have to  
24 spend a lot of money to do that kind of tracking.

25 But also, I wanted to talk about how over

1 time we've honed our commercial inspection times.  
2 We average about 15 minutes per site. That is not  
3 including the time by our other staff to review and  
4 process the inspection results.

5 But this is only because many times the  
6 inspector only needs to look at the hauler service  
7 bins that are outside, in publicly accessible  
8 areas. Having to go into a business to verify the  
9 appropriately-labeled, indoor containers are in all  
10 areas, or that education has been provided to  
11 employees annually, would mean significantly more  
12 time needed per inspection and increase access  
13 issues.

14 In our ordinance enforcement, we  
15 determined that the inspection at the hauler  
16 service bins was where it was the most effective to  
17 see where proper sorting -- whether proper sorting  
18 was occurring. And if a generator was properly  
19 sorting their materials, it shouldn't matter if  
20 they don't have color-coded bins or extensive  
21 signage. They're sorting properly.

22 Penalties that indicate that CalRecycle  
23 can fine jurisdictions if they don't enforce  
24 against generators' indoor containers specific are  
25 inappropriate.

1           Your flags also indicated that enforcement  
2 would mostly have to consist of annual compliance  
3 reviews, which is the provision of service, and  
4 route reviews for container contaminants. But then  
5 why keep in penalties to the -- potentially to the  
6 jurisdiction on what happens indoors for those  
7 businesses.

8           Also, you know, as has been mentioned  
9 previously, the current requirement to submit a  
10 massive amount of data is very burdensome under  
11 restrictions. And specifically, I wanted to point  
12 out that your requirement for the January to June  
13 2022 time period being required one month at the  
14 end of that period is not doable.

15           For instance, the processing of our  
16 citations sometimes has a six- to eight-week lag.  
17 Also, many reporting provisions in the franchises  
18 don't have that quick of a turnaround time to  
19 provide the data that would be needed, you know,  
20 for something that happened in that June time  
21 period that's due August 1st.

22           Also, so there are reasons by the  
23 electronic annual report, now, has jurisdictions  
24 reporting in August for the prior calendar year.  
25 So, I think it's inappropriate to have that six-



1 month time due one month later.

2           Furthermore, in our MRO implementation, we  
3 regularly convey information about the enforcement  
4 and technical assistance activities that we conduct  
5 in our member jurisdictions. **But to** have to  
6 transfer copies of all inspection data, photos,  
7 copies of enforcement letters to that the  
8 jurisdiction is the sole holder of the  
9 implementation record would require massive data  
10 management systems that don't, in and of  
11 themselves, do anything to make progress on  
12 diverting organics from the landfill.

13           We request that if a jurisdiction is  
14 designated another entity, such as us, to be  
15 responsible for major components of the  
16 requirements, that they also be able to designate  
17 that entity as the holder for that portion of the  
18 implementation record. And that you listen that it  
19 all needs to be in one central location.

20           I also want to really encourage CalRecycle  
21 to think about how the massive amount of reporting  
22 data that's currently required is going to take  
23 away from the resources that could be used to  
24 affect behavior change and that's what's really --  
25 and what's really need to show that a jurisdiction

1 is making the appropriate progress towards the goal  
2 that needs to be really looked at. Thank you.

3 MS. COTE: Hi, my name's Kathy Cote, with  
4 the City of Fremont. We're actually a member  
5 agency of StopWaste. So, we've had a lot of  
6 experience implementing mandatory recycling  
7 programs and we've learned a lot from that in the  
8 field. And we're very grateful, actually, to have  
9 StopWaste organizing a lot of things on behalf of  
10 the county.

11 I just wanted to echo some of the things  
12 that Rachel said. When I read the regulations, I'm  
13 really concerned there are some things that are so  
14 prescriptive and so impractical to implement in the  
15 field that there's no way we're going to be able to  
16 do them effectively. Even as organized and as  
17 experienced as we have been, having StopWaste, you  
18 know, doing inspections, and helping us, and  
19 implementing the organics program.

20 I just wanted to emphasize we submitted  
21 some very detailed recommended comments as part of  
22 the StopWaste package. I would ask you to please  
23 consider that. It is a result of implementing  
24 programs, learning things in the field, and  
25 understanding some of the complexities and the

1 reality. You know, we don't want to divert our  
2 resources to things that don't really help us  
3 achieve our goal and just use the staff resources  
4 without really getting us to what we need.

5 So, I would ask you to please consider  
6 those comments and incorporate them into the  
7 language. Thank you.

8 MS. HEATON: Good afternoon. Staci  
9 Heaton, Rural County Representatives of California  
10 and Rural Counties Environmental Services Joint  
11 Powers Authority. I have a couple of pretty  
12 specific comments pertaining to Section 18996.1.  
13 And so, I'm going to try to be really pointed and  
14 very brief.

15 This section talks about requirements for  
16 evaluation of a jurisdiction's compliance and  
17 notification in writing of the findings for the  
18 jurisdiction. But it only provides a jurisdiction  
19 to correct deficiencies of an ordinance. It's very  
20 specific about that, and not other types of  
21 compliance issues. It speaks very specifically to  
22 ordinances. And that could be problematic.

23 We have some recommended language that is  
24 really similar to what was just adopted in the AB  
25 9901 reporting requirements. And I have -- I could

1 read it to you, but I don't really think anybody  
2 wants that. But I have it in writing and I'm going  
3 to drop in that box before I sit back down. So,  
4 taht will make it a little easier, unless you  
5 really want me to read it, but I don't think you  
6 want me to.

7           So, and the other comment that I had was  
8 with respect to when there is an inconsistency in  
9 an ordinance, the Department -- the section is only  
10 allowing 90 days to fix the inconsistencies before  
11 enforcement action is undertaken. And, you know,  
12 90 days might seem like a long time, but if it's a  
13 pretty severe inconsistency when you're dealing  
14 with a public process, and then a board of elected  
15 officials and, you know, that can get pretty  
16 complicated. Ninety days may not be sufficient  
17 time, so we'd just ask that you would consider  
18 that, and we'd be happy to talk with you about that  
19 further. And that ends my comments, thank you.

20           MR. BRADY: Thank you. And just before  
21 the next speaker, just a reminder for folks, if you  
22 do have a written copy of your testimony, if you  
23 wouldn't mind dropping it in the box it will help  
24 for making sure we have the comments captured  
25 accurately.

1 MS. HAAS-WAJDOWICZ: Hi. Julie Haas-  
2 Wajdowicz. I'm the Environmental Resources  
3 Coordinator for the City of Antioch. I'm going to  
4 hit send on my email as soon as I'm done with this,  
5 instead of dropping it in the box.

6 My career with the City of Antioch started  
7 with the enforcement action of AB 939 compliance.  
8 I am really hoping that my career doesn't end with  
9 the City of Antioch with enforcement action on this  
10 legislation. Actually, I will be honest, I  
11 seriously looked at whether or not I could retire  
12 early. Yeah.

13 We are a city that doesn't have a JPA for  
14 waste. We manage our own franchise agreement. We  
15 have, basically, not gone out to bid since 1976. I  
16 was really hoping that we would be able to have a  
17 competitive bid process for our franchise agreement  
18 in 2025. Now, it looks like I'm going to spend the  
19 next few years negotiating another contract  
20 extension that is, hopefully, in the best interest  
21 of my community.

22 However, our initial cost proposal is  
23 looking at, at least a 40 percent increase in  
24 residential garbage rate costs to our consumers.  
25 So, it's a little -- it's not looking good for

1 adding the food waste to our green waste program.

2           Additionally, the timeline. We are still  
3 negotiating a commercial organics rate for SB 1826.  
4 Right now, our franchise hauler is offering it at  
5 no cost because we haven't been able to reach an  
6 agreement.

7           So, I'm really concerned about how long  
8 it's going to take us to reach an agreement once we  
9 have our formal rulemaking done on the residential  
10 rates. And so, I just am really concerned about  
11 the timeline that you're proposing for compliance  
12 with local government. Thank you.

13           MS. PASCOE: Hi, Hope Pascoe, with the  
14 Alameda County Community Food Bank. I just want to  
15 reiterate our strong support for robust capacity  
16 planning that includes the recovery organizations.  
17 We really hope that this will help to mitigate any  
18 unintended consequences related to violations and  
19 fines with food recovery organizations. More  
20 specifically, because our smaller, volunteer-  
21 staffed organizations could be disproportionately  
22 impacted by them.

23           We really hope that cross-education and  
24 building a food recovery work flow, with everyone  
25 at the table, will help to prevent the impact.

1 Thank you.

2 MR. OZORAK: Hello, Etienne Ozorak, from  
3 Sacramento County. On one of the slides it  
4 mentioned partnering with the county health  
5 department for inspections. And I want to -- in  
6 our county, we've been partnering with the county's  
7 environmental management department for many years  
8 for the 341 and other inspection regimes.

9 And the cycle that we've had has been a  
10 three-year cycle, instead of a one-year cycle. But  
11 under this -- so, we have a track record on how  
12 much we spend on enforcement. And per inspection,  
13 it's anywhere between \$320 to \$380. So, if we  
14 magnify that by the number of generators, and as I  
15 mentioned this morning the big pool is 40,000, the  
16 EMD pool is 18,000. Using the hauler list, it's  
17 7,000. So, based on 7,000, we're looking at  
18 anywhere between \$2.2 to \$2.6 million just for that  
19 part of the program. Thank you.

20 MS. TURNER: I think I'd like to just make  
21 two points of clarification, just make sure there's  
22 clear understanding of what the requirements are.

23 For first of all, the annual compliance  
24 reviews are not physical inspections. It is a desk  
25 audit. So, I just want to make sure people

1 understand that.

2           The second point I want to bring up is we  
3 recognize because of the compliance reviews being a  
4 desk audit, there's a little disconnect with the  
5 assessment of what's happening inside the business,  
6 so you'll see that corrected in the next version.

7           MR. BRADY: Other comments on this  
8 section, in the room?

9           And then, Chris, if there's additional  
10 online comments, then you can email those to me.  
11 I've got it pulled up.

12           MR. EDGAR: Evan Edgar, Edgar Associates.  
13 I was around back in the AB 939 days, and we used  
14 to do county-integrated risk management plans,  
15 source reduction elements, compost components and  
16 nondisposal facility elements with a local task  
17 force. I understand that will keep on going on  
18 every five years, with a five-year review.

19           And then there was AB 341 and 1826 about  
20 annual reports. And now, we have another level of  
21 instruments for compliance.

22           Is there any opportunity to combine them  
23 all into one document versus trying to do a -- do  
24 we still need to do CIWMPs, are CIWMP and compost  
25 components of yesteryear no longer an instrument to



1 use? Are we pivoting towards this new format? And  
2 why would we need to do county integrated  
3 management plan updates every five years, if  
4 they're irrelevant in today's reporting and  
5 planning aspects?

6 MR. BRADY: So, a good question. A little  
7 bit outside the scope of the rulemaking, but  
8 certainly relevant and something that the  
9 Department will be looking at moving forward.

10 MS. FOSTER: I forgot one comment.  
11 Colleen Foster, City of Oceanside. We did not  
12 include this in our letter, but one of the biggest  
13 challenges we're seeing is how are we going to  
14 staff this whole regulation in general. And, in  
15 particular, this section. You talk about desk  
16 audits. I lack in staffing who would know what to  
17 do with regard to annual reporting, or quarterly  
18 reviews, et cetera.

19 Our city, alone, we've had two full time  
20 vacancies open for the past year. We've gone  
21 through one full recruitment process. I ended up  
22 with 175 applications, all of which had stormwater  
23 and water conservation experience. But the  
24 majority of experience in solid waste was a  
25 recycling bin at their office. So, there's really

1 a lack of experience and a lack of understanding of  
2 our industry, and let alone this type of  
3 regulation. So, we'd like CalRecycle to really  
4 consider the staffing list that needs to happen in  
5 order to meet the needs of SB 1383, not just the  
6 infrastructural.

7 MR. BRADY: Thank you. Are there other  
8 comments in the room?

9 MR. WINE: Good afternoon, Sean Wine with  
10 Clean Energy. Two comments. First was you gave an  
11 example of the City of Los Angeles. And the city,  
12 based on its population would have around five  
13 million gallons of renewable transportation fuel  
14 they would have to purchase.

15 Ironically, the city does actually use  
16 just about 5 million gallons of fuel today. Now, I  
17 don't need to go back and echo what my colleagues  
18 and stakeholders have said here, but I think it's  
19 important to open up the purchasing requirements  
20 that allow for optionality.

21 Subsequently, I think you should really  
22 look at the injection point into the pipeline  
23 system.

24 The city has around six or seven solid  
25 waste facilities where they park and domicile their

1 trucks and having fueling infrastructure in place.  
2 So, in theory, if you have all these digester  
3 facilities in play by 2022, and the city has one  
4 digester that's collecting this, if it could inject  
5 into the pipeline system, they would be able to  
6 allocate that fuel to its existing infrastructure.

7 I think we're missing an important point  
8 that logistics does definitely become a big  
9 challenge. Everybody knows the freeways are  
10 congested and the communities are already impacted  
11 by trucks on the road.

12 So, having more logistical issues with  
13 trying to go to one central fueling location can  
14 present a challenge, not only for a city, but also  
15 for a contracted refuse.

16 The second comment I'd like to say is  
17 earlier today a colleague, who will remain  
18 nameless, who is not representing anybody here  
19 today, talked a lot about grandfathering or  
20 potentially making sure that people who have  
21 invested in infrastructure are able to have some  
22 way to amortize those investments.

23 I think it's also important to consider  
24 that there are many refuse (indiscernible) -- some  
25 of which were early adopters of renewable natural

1 gas when the Low Carbon Fuel Standard was adopted  
2 in 2011. They were some of the first users.

3 Many of them have used RNG and have long-  
4 term contracts whereby they are receiving RNG from  
5 people like Clean Energy, that's distributing  
6 renewable natural gas in the pipeline system. If  
7 2022 comes around, in theory they would have to use  
8 1383 renewable transportation fuel and they could  
9 become into a peculiar position whereby they might  
10 have to break or breach an existing agreement with  
11 renewable gas, from the existing supplier,  
12 potentially, as we see it.

13 And many of those off-take contracts that  
14 these fleets have signed up to receive this gas  
15 were really the precipice for how RNG projects have  
16 been developed to date. So, I think we need to be  
17 mindful of the fact that those contracts are in  
18 place. And then, I would encourage CalRecycle to  
19 take that into consideration as a way, or a  
20 mechanism to potentially grandfather those types of  
21 fleets into this program.

22 And I appreciate the opportunity. I'd be  
23 happy to work CalRecycle, as well, on some of the  
24 renewable natural gas discussions, as it's likely  
25 you're probably going to have these going forward.

1 MR. BRADY: Thank you. Are there other  
2 comments? We're moving into comments on other  
3 aspects of the regulation. Other comments specific  
4 to reporting compliance or enforcement from folks  
5 here in the audience?

6 Okay, going to go to a couple online  
7 comments that came in. This is from Janet Gardner,  
8 from Fresno, California.

9 At least one jurisdiction is pushing these  
10 requirements to the haulers, to do the inspections  
11 of the hauler customers and report back to the  
12 jurisdiction, thereby putting a huge burden on  
13 haulers and/or processors to act as enforcement  
14 officers. It appears SB 1383 compliance and  
15 enforcement measure are not realistic, verifiable,  
16 and consistent or equitable for all communities.  
17 Do customers have the option of refusing entry for  
18 the purpose of inspections? Would a court consider  
19 issuing an inspection warrant for this type of  
20 inspection?

21 Okay. And I have a comment from Deidra  
22 Dingman, with Contra Costa County, that looks to be  
23 copied from the letter that they submitted. And  
24 just acknowledging that we received the comment  
25 there.

1           And then, from Wanda Redic, with the City  
2 of Oakland.

3           Edible food generators are usually heavily  
4 regulated and inspected by environmental health  
5 agencies statewide, as well as a host of other  
6 agencies. Additional inspections by an additional  
7 agency is onerous and disruptive to a business  
8 operation. Additionally, solid waste and recycling  
9 staff do not have expertise needed to inspect these  
10 businesses to determine whether they are in  
11 compliance with proper handling of food that is  
12 intended for donation.

13           For example, if a donor does not maintain  
14 food at a certain temperature while awaiting  
15 collection, that food can be deemed as having being  
16 deliberately rendering unsuitable for donation. It  
17 will then become the responsibility of the  
18 receiving entity to compost it, since it could not  
19 be donated.

20           Just quickly, there is another comment.  
21 Just want to acknowledge we are sensitive to the  
22 potential overlap in oversight responsibilities,  
23 but also trying to draw a clearer line of  
24 distinction between the oversight and authority for  
25 monitoring edible food recovery versus the

1 oversight and authority for monitoring safe  
2 handling of food, which really rests with the  
3 public health department.

4           There's another comment here from Wanda  
5 Redic. While we have attempted to include  
6 environmental staff in the planning process, we  
7 can't compel them to assist us. We also do not  
8 have the reach necessary to gain cooperation from  
9 the management staff. Each jurisdiction desiring  
10 the same cooperation would have to spend  
11 cultivating a relationship with an environmental  
12 agency. We urge CalRecycle to work with proper  
13 State authority, such as the Department of Public  
14 Health.

15           And there's more to your comment. But  
16 just in the interest of time I want to get that and  
17 acknowledge we do -- we have been working with the  
18 Department of Public Health and will continue to do  
19 so. And we'll respond to this comment in writing  
20 as we move forward.

21           So, are there other comments on other  
22 sections of the regulation outside of enforcement  
23 or general comments, that folks would like to make  
24 at this time on the 1383 rulemaking?

25           So, everyone's satisfied?

1           Okay, a couple additional comments coming  
2 in here. We've got another comment from Wanda  
3 Redic, but this is in a general area.

4           Existing franchise agreements are already  
5 set and we would not be able to increase rates or  
6 implementation this legislation. We'd like  
7 guidance around enacting fees, with the details  
8 about available methods, particularly in light of  
9 Prop 2018.

10           And a comment from Jack Macy, with the  
11 City and County of San Francisco. The required  
12 level of monitoring and reporting, especially for  
13 verifying adequate service annually will be  
14 burdensome and unnecessarily onerous, and costly  
15 for cities like San Francisco, with many thousands  
16 of commercial accounts.

17           Again, our comprehensive mandatory  
18 ordinance implemented over the last ten years and  
19 expensive monitoring and compliance efforts. This  
20 will require additional staff to meet proposed  
21 reporting requirements.

22           Also, a concern about much more onerous  
23 requirements for three-stream, of a two-stream, of  
24 a one-stream collection programs relative to the  
25 collection system that were discussed earlier,



1 requiring less education, monitoring, reporting and  
2 enforcement for one stream. It incentivizes a one-  
3 stream system over a two- or a three-stream  
4 program.

5           Okay, so if there are any other comments  
6 in the room, we'll take those now. Otherwise, we  
7 will conclude the hearing.

8           Want to thank everyone that provided  
9 comments, both in writing during the 45-day comment  
10 period, and comments today. Throughout the  
11 informal process and the process today, and  
12 throughout the formal process, all the feedback  
13 that we've received have only made the regulations  
14 better than they were originally proposed, and  
15 we'll continue to refine and make changes as we get  
16 feedback.

17           So, thank you again, everyone, for your  
18 participation. And we'll be posting additional  
19 information through the SLCP listserv as we move  
20 forward. Thank you again.

21           (Off the record at 3:47 p.m.)

22                   --oOo--  
23  
24  
25